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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable DEBBIE STABENOW, a Senator from the State of Michigan.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, we are grateful for the assurance of Your presence, available at all times, dependable in all circumstances, bracing when we need correction, and inspiring when we need courage. Lead on, Lord, as we press on. The day stretches out before us filled with debate, deliberations, and decisions. Keep us calm as we trust You and reassured as You replenish our reserves. You have promised never to leave or forsake us. Grant the Senators a renewed assurance of Your wisdom for each complex problem. You are the source of creative insight, inventive solutions, and decisive intentionality. Fill this Chamber with Your presence, each Senator with an acute sense of accountability to You, and all of America with the privilege of being one Nation under Your providential care and Your protective concern. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DEBBIE STABENOW led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 5, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DEBBIE STABENOW, a Senator from the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. STABENOW thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Madam President, the two managers of the bill will be here shortly to continue with this most important Interior appropriations bill. Debate will continue until 12 noon, at which time we will have an hour of morning business, with the Republicans controlling the first half and the Democrats controlling the second half.

At 1 p.m., the Senate will resume consideration of the Homeland Security Act.

There have been amendments laid down—both on the Interior bill and the homeland security bill.

Today will be the last business day of the Senate this week because of the ceremony in New York tomorrow. I hope we can make progress on both of these most important pieces of legislation.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 5093, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5903) making appropriations for the Department of the Interior and related agencies for fiscal year ending September 30, 2003, and for other purposes.

Pending:

Byrd amendment No. 4472, in the nature of a substitute.

Byrd amendment No. 4480 (to amendment No. 4472) to provide funds to repay accounts from which funds were borrowed for emergency wildfire suppression.

Daschle modified amendment No. 4481 (to amendment No. 4472), to provide emergency disaster assistance to agricultural producers.

Mr. REID. Madam President, until we hear from Senator BYRD, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

Mr. BYRD. Madam President, I object.

The ACTING PRESIDENT pro tempore. Objection is heard. The clerk will continue to call the roll.

The legislative clerk continued with the call of the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Madam President, I apologize to the distinguished Senator from Minnesota, Mr. WELLSTONE, for my having objected to his calling off an earlier quorum. My reason for doing that was so that we, the two managers, could get certain amendments in order

that were agreed to, with respect to the amendments, on both sides. We would like to go forward with these at this point, after which I certainly hope the distinguished Senator from Minnesota will then proceed. I thank him for his characteristic courtesy.

Madam President, I shall offer three or four amendments for Members on my side of the aisle. My colleague, Mr. BURNS, will offer amendments for Members on his side of the aisle. These amendments have been agreed to on both sides.

AMENDMENT NO. 4493

Mr. BYRD. Madam President, I send, therefore, an amendment to the desk.

The ACTING PRESIDENT pro tempore. Without objection, the pending amendment will be set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mrs. MURRAY, proposes an amendment numbered 4493:

(Purpose: To provide funds for the Vancouver National Historic Reserve in the State of Washington, with an offset)

On page 22, line 23, strike ''$62,828,000'' and insert ''$63,228,000, of which $400,000 shall be made available for statutory and contractual aid for the Vancouver National Historic Reserve in the State of Washington''.

On page 24, line 13, strike ''$361,915,000'' and insert ''$361,515,000''.

Mr. BYRD. Madam President, I have offered this amendment on behalf of the distinguished senior Senator from Washington, Mrs. MURRAY. The amendment, as the clerk has read, would provide funds for the Vancouver National Historical Reserve in the State of Washington. The amendment has been fully offset and has been agreed to by both managers. I urge its adoption.

The ACTING PRESIDENT pro tempore. Is there further debate?

If not, without objection, the amendment is agreed to.

The amendment (No. 4493) was agreed to.

Mr. BYRD. Madam President, I move to reconsider the vote by which the amendment was adopted.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Madam President, I yield to my colleague to offer an amendment, after which I will, hopefully, get the floor to offer another amendment.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

AMENDMENT NO. 4494

Mr. BURNS. I thank my chairman.

Madam President, I send to the desk an amendment on behalf of Mr. CAMPBELL of Colorado and ask for its consideration.

The ACTING PRESIDENT pro tempore. Without objection, the pending amendment will be set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BURNS], for Mr. CAMPBELL, proposes an amendment numbered 4494.

Mr. BURNS. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the provision relating to transportation services to include Rocky Mountain National Park)

Beginning on page 62, strike line 22 and all that follows through page 63, line 2, and insert the following:

of transportation services at Zion National Park or Rocky Mountain National Park, the Secretary of the Interior may obligate the expenditure of fees expected to be received in that fiscal year before the fees are received, so long as total obligations do not exceed fee collections retained at Zion National Park or Rocky Mountain National Park, respectively, by the end of that fiscal year.

Mr. BURNS. Madam President, this is a technical change in the transportation and contractual authority for Rocky Mountain National Park in Colorado. It has been cleared on both sides. I urge its adoption.

The ACTING PRESIDENT pro tempore. Is there further debate?

If not, without objection, the amendment is agreed to.

The amendment (No. 4494) was agreed to.

Mr. BURNS. Madam President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4495

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. Madam President, I have an amendment which I offer on behalf of Senator LEAHY. I send it to the desk. These amendments are short, so I would like for the clerk to read them.

The ACTING PRESIDENT pro tempore. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. LEAHY, proposes an amendment numbered 4495:

(Purpose: To permit the use of a single procurement contract by the Smithsonian Institution for a multi-year repair and renovation of the Patent Office Building, subject to the availability of annual appropriations)

On page 102, at the end of line 26, add the following:

''*Provided*, That notwithstanding any other provision of law, a single procurement contract for the repair and renovation of the Patent Office Building may be issued which includes the full scope of the project. *Provided further*, That the solicitation of the contract and the contract shall contain the clause 'availability of funds' found at 48 C.F.R. 52.232–18.''

Mr. BYRD. Madam President, this amendment, which is proposed by Mr. LEAHY, would allow the Smithsonian Institution to use a single procurement contract for multiyear repair and renovation work at the Patent Office Building. This amendment will result in the saving of time and the saving of money and has, therefore, been agreed to by the managers.

The ACTING PRESIDENT pro tempore. Is there further discussion?

If not, without objection, the amendment is agreed to.

The amendment (No. 4495) was agreed to.

Mr. BYRD. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Madam President, on these remaining amendments, when they are offered, I ask unanimous consent that the pending amendment be set aside until our series of amendments have been taken care of.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Montana.

AMENDMENT NO. 4496

Mr. BURNS. Madam President, I send an amendment to the desk and ask for its immediate consideration on behalf of Senator COLLINS of Maine.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BURNS], for Ms. COLLINS, proposes an amendment numbered 4496:

(Purpose: To redistribute funds allocated for Atlantic salmon recovery)

On page 13, line 19, insert the following after the colon:

'': *Provided further*, That of the funds available for endangered species recovery, $1,500,000 is for Atlantic salmon recovery activities administered by the National Fish and Wildlife Foundation and $500,000 is for the United States Fish and Wildlife Service to undertake Atlantic salmon recovery efforts in Maine.''

Mr. BURNS. Madam President, I congratulate the Senator from Maine for submitting this amendment. What it does is provide for the reallocation of funds for recovery activities of the Atlantic salmon. As you know, we have ongoing recoveries for all kinds of species across the country. Of course, one of the big ones is the Pacific salmon. Now she has offered to pick up and accelerate the programs on the Atlantic salmon. I ask for its adoption.

The ACTING PRESIDENT pro tempore. Is there further debate?

If not, without objection, the amendment is agreed to.

The amendment (No. 4496) was agreed to.

Mr. BURNS. Madam President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4497

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Senators GRAHAM and NELSON of Florida.

The PRESIDING OFFICER (Mr. MILLER). The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. GRAHAM and Mr. NELSON of Florida, proposes an amendment numbered 4497:

(Purpose: To direct the Corps of Engineers to construct a portion of the modified water delivery project in the State of Florida)

On page 127, between lines 2 and 3, insert the following:

SEC. 3____. MODIFIED WATER DELIVERY PROJECT IN THE STATE OF FLORIDA.

Notwithstanding any other provision of law, the Corps of Engineers, using funds made available by this Act and funds made available under any Act enacted before the date of enactment of this Act for modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r–8), shall immediately carry out alternative 6D (including paying 100 percent of the cost of acquiring land or an interest in land) for the purpose of providing a flood protection system for the 8.5 square mile area described in the report entitled ''Central and South Florida Project, Modified Water Deliveries to Everglades National Park, Florida, 8.5 Square Mile Area, General Reevaluation Report and Final Supplemental Environmental Impact Statement'' and dated July 2000.

Mr. BYRD. Mr. President, this amendment I have offered on behalf of Senators GRAHAM and NELSON of Florida will expedite the important environmental restoration work currently underway in and around the Everglades National Park.

The amendment has been agreed to by both sides. I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

If not, without objection, the amendment is agreed to.

The amendment (No. 4497) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, the remaining amendments will be offered by my colleague, Mr. BURNS.

AMENDMENT NO. 4498

Mr. BURNS. Mr. President, I send an amendment to the desk on behalf of Mrs. HUTCHISON of Texas and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BURNS] for Mrs. HUTCHISON, proposes an amendment numbered 4498.

Mr. BURNS. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make a technical change with respect to the Lower Rio Grande Valley National Wildlife Refuge)

On page 14, lines 11 and 12, strike ''$42,182,000, to remain available until expended:'' and insert ''$42,682,000, to remain available until expended, of which $500,000 shall be made available for the World Birding Center in Mission, Texas:''.

On page 14, line 26, strike ''$89,055,000'' and insert ''$88,555,000''.

On page 15, line 5, insert '', of which $500,000 shall be made available for the Lower Rio Grande Valley National Wildlife Refuge'' before the colon.

Mr. BURNS. Mr. President, this is a reallocation of funds to make sure the Birding Center in Texas is maintained and it is fully offset. It has the approval of both sides of the aisle.

The PRESIDING OFFICER. Is there further debate?

Without objection, the amendment is agreed to.

The amendment (No. 4498) was agreed to.

Mr. BURNS. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4499

Mr. BURNS. Mr. President, I send an amendment to the desk on behalf of Senator KYL of Arizona.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BURNS], for Mr. KYL, proposes an amendment numbered 4499.

The amendment is as follows:

(Purpose: To require the Director of the National Park Service to report to Congress on the status of the Colorado River Management Plan)

On page 64, between lines 15 and 16, insert the following:

SEC. 1____. COLORADO RIVER MANAGEMENT PLAN.

Not less often than annually, the Director of the National Park Service shall report to Congress on the status of the Colorado River Management Plan.

Mr. BURNS. This amendment has the approval of both sides of the aisle. I urge its adoption.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 4499) was agreed to.

Mr. BURNS. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BURNS. Mr. President, I yield the floor.

Mr. BYRD. Mr. President, I thank my distinguished friend and colleague, the ranking member. This completes the series of amendments to which I alluded earlier.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

AMENDMENT NO. 4481

Mr. WELLSTONE. Mr. President, I thank the Senators for their fine work. We are now debating an amendment that was laid down by a number of Senators. Senator DASCHLE took the lead and I am proud to be an original cosponsor. It deals with the question of disaster relief.

I have to say, as the Senator from Minnesota, I take this debate in the next hour, hour and a half, or 2 hours as serious as any debate I have ever been involved in because I think literally this is at least an economic life-or-death question for many farmers in Minnesota, specifically northwestern Minnesota.

Before I talk about my State, I want to make this appeal to all of my colleagues. There was a front-page story in the Washington Post today—and I know Senator NELSON and Senator HAGEL have spoken about this—about the drought in Nebraska. It is heartbreaking to read about that. It is just almost unprecedented drought conditions. For these ranchers, cattlemen, and farmers, the time is not neutral. Time moves on. If we don't take any action and get help to them, the farm bill becomes irrelevant because they don't have any crops and they are not going to be able to produce to get a price.

They didn't ask for the drought. It is the same thing in South Dakota. Then I read about the fires in Colorado and in Arizona. They didn't ask for that. During the years that I have been here in the Senate, we have also had Senators come to the floor from different States where there have been hurricanes or tornadoes. Certainly, that has happened in Minnesota. It is devastating, these natural disasters. It has nothing to do with whether people work hard or are good managers.

As I have said, there but for the grace of God go I. Nobody knows, in our part of the country, when you could be hit by a tornado. In other parts of the country, it could be a hurricane, drought, fire, or flooding.

So I think this vote is a test of our goodness. I am not going to bash away at the administration. I hope the administration is changing its view and not working strongly against this amendment. Frankly, I will give all the credit in the world to anybody who helps. It doesn't really matter to me. If the White House is going to show flexibility and support, and we pass this amendment on the floor, and it is kept in conference, I will applaud everybody and give credit to everybody. I hope that is the way it will be because, frankly, I think disaster relief is really—look, people say I have been in a lot of intense debates on the floor and probably will be in one this afternoon about these scoundrel companies that go to Bermuda and set up sham headquarters and don't pay their fair share of taxes.

I don't think the whole question of emergency disaster relief has any party label to it. Certainly, the people whose lives are destroyed are Democrats, Republicans, Independents, or none of the above. Certainly, this is about our States and the people we represent and

doesn't have a lot to do with party identification, period.

As I said yesterday—and I will get to the specifics about Minnesota—I know I have never voted against disaster assistance moneys for any part of the country because I think it is an example of there but for the grace of God go I. We are grateful that I can help other parts of the country, and we are grateful it wasn't our homes or farms or that it didn't happen in our State. We are grateful that it didn't happen in our communities. But sometimes it does happen in our State and in our communities, in which case we come to the floor and ask colleagues for support.

Really, on the whole question of offsets, we haven't done offsets for disaster relief before. This is just something that happens and we know when it happens that we provide the help. So in the case of Minnesota, we are talking about 17 counties in northwest Minnesota. We are talking about rich farmland and about having been really massively damaged and devastated by the flooding. FEMA does good work. I love the work they do. They have been to Minnesota many times. They are an amazing group of men and women. It is an interesting job they have. They come in crisis situations and help with temporary housing, and the Small Business Administration tries to help with additional funding; and if there is damage of infrastructure, public infrastructure, they have helped us rebuild schools in our State.

As my colleague from Montana and all Senators who are from farm country know, they do not provide assistance to the farmers. We need help for these farmers—the wheat growers, corn growers, soybean growers, you name it. Everything that is in the farm bill will be irrelevant. We are lucky if it covers 70 percent of the cost. We would be very lucky. The farmers cannot afford a 30-percent loss.

I call on our colleagues for their support. The past is the past, and the present is the present. I am interested in the present. We had in the Senate bill farm money for disaster relief assistance. I wish it had been kept in conference. It was not. That is beside the point. It is in the past. We tried to put it on the emergency supplemental bill, and there was opposition.

My hope today is that we will come together, Democrats and Republicans, and we will do it because we know this is what we always do. When people are faced with these kinds of crises—this does not have anything to do with low prices; it does not have anything to do with countercyclical payments or dairy payments; it does not have anything to do with the Conservation Reserve Program.

This has to do with weather-related disasters that have literally devastated so many people in farm country in America today and/or in other parts of our country today. I think of the fires again.

I come to the Chamber to urge my colleagues, to appeal to my colleagues to please support this amendment. Please support it. This amendment will provide much needed help to many wonderful, hard-working people in northwestern Minnesota and, for that matter, around the country.

The vote we are going to have, which will probably be sometime before noon, will be a critically important vote. We will need 60 votes. I hope we get the 60 votes. I say to the Chair, having been to northwest Minnesota several times, these have been some of the toughest meetings I have ever attended. The farmers are at their wits end. It is not like they are asking for help. The Presiding Officer knows some of the people about whom I am speaking. They are not comfortable asking for help. They know they have to have help or there is no tomorrow; they will have no future at all.

If they can get the good news today that the Senate said, We are going to provide you with the help, we are going to provide the disaster relief money, it will make all the difference in the world. If we get over 60 votes, I really believe we will have a good chance of keeping it in conference. I think the White House will support us, and we can do this together.

As a Senator from Minnesota, having a pretty clear picture about when we talk about $300 million worth or $350 million worth of damage and number of acres, I translate that all into personal terms. I think of all the husbands, wives, children, and families with whom I have met. The farmers are not here, but they are counting on us to represent them well.

I say to all Senators, please represent well the people in the country who have been hit with these natural disasters, and please vote for this amendment. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for 5 or 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair.

IRAQ

Mr. MURKOWSKI. Mr. President, as we contemplate military action against Iraq, I wish to bring to the attention of my colleagues the rationalization, in the opinion of the junior Senator from Alaska, of the circumstances surrounding the risk to allow Saddam Hussein to continue to develop weapons of mass destruction. It is no secret that over an extended period of time, Saddam Hussein and Iraq have been developing this capability. It not only includes chemical weapons and biological weapons, but a delivery system. Clearly, we have seen as a consequence of the Persian Gulf war the capability of a delivery system reaching Israel. In addition to that, we have every reason to believe he is developing his nuclear capability.

The question to which we have to relate is, of course, the obligation as to how to thwart this exposure from the standpoint of the United States' role as not only the peacekeeper of the world but the recognition that if the United States does not do it, it probably will not be done.

I bring that reference up to simply highlight a comparison. Had we known in advance of 9/11 the contemplated exposure—not only to the United States, but the peace of the world, as we knew the world prior to that time and the recognition that a number of aircraft was going to be used as weapons and the consequences associated with the aircraft that went into the World Trade Center in New York, the Pentagon, and, of course, the exposure in Washington and other areas of the United States associated with the activities at that time—we would have taken some action, Mr. President. There is no question about it because we knew the ramifications of not taking such action.

What I am saying is we have a dilemma in the sense of a recognized concentration of weapons of mass destruction being controlled by an individual who is not only uncontrollable but one who has, over an extended period of time, initiated actions such as we have seen during the Persian Gulf war where he saw fit to invade Kuwait with the intention of going into Saudi Arabia with the objective of controlling the wealth of the oil provinces of that part of the world. That was his objective, make no mistake about it.

If he could have prevailed in Kuwait and gone into Saudi Arabia, he would have controlled a good portion of Mideast oil and, hence, the wealth and cashflows of the area.

The consequences of that, as we see Saddam Hussein again amassing this threat as a consequence of his development of weapons of mass destruction, brings us to the evaluation of what action we should take. Is it inevitable that sooner or later Saddam Hussein will use these weapons of mass destruction, and against whom?

We have had an opportunity to observe a pattern of Saddam Hussein in the time since the Persian Gulf war. If one can perhaps simplify it, we have initiated a no-fly zone over Iraq since about 1992. In initiating that no-fly zone, we have taken out some of his targets. He has attempted to shoot some of our aircraft down that are patrolling the area.

There is another inconsistency that stands out even more openly, and that

is the realization that during this time we have been buying oil from Saddam Hussein, hundreds of thousands of barrels a day. In September of 2001, we set a record by importing nearly 1.2 million barrels of oil per day from Saddam.

It is almost as if we would take his oil, put it in our airplanes, and go take out his targets. That is rather ironic. I think it is rather inconsistent, and it shows certainly an inconsistency in our foreign policy.

What does he do with the money he receives from the United States? Why, he takes care of his Republican Guard, the group that keeps him alive, and develops more weapons of mass destruction and perhaps aims them at our ally Israel. Maybe that is an oversimplification of foreign policy. Nevertheless, that is what has been going on over a period of time. So we have become, to some extent, perhaps a partner because we are providing Saddam Hussein indirectly, through the purchase of his oil, with a cashflow that allows him to develop his weapons of mass destruction.

Others might say that is inconsistent logic because someone else would buy his oil if the United States did not. I am not going to pursue that, other than to state a fact: We are buying hundreds of thousands of barrels of oil from Saddam Hussein. He is developing weapons of mass destruction. Where does he get the money? A portion of it comes from oil sales to the United States.

So as we contemplate our decision on initiating an action against Saddam Hussein, we have to look back to the circumstances surrounding 9/11 where, had we known that the threat was what it turned out to be, we would have initiated an action. We did not know. We did not initiate an action.

We can criticize our security. We can criticize the CIA and the other intelligence agencies for inadequate information. Nevertheless, the fact remains, we did not know. Had we known, we would have taken action.

In the case of Saddam Hussein, clearly we know he is developing weapons of mass destruction. So the point is, should we take action? If we do not, who will? What is the actual threat? We do not know, but it is clearly a choice. We are giving Saddam Hussein a choice of either surrender—in other words, open up your country to the U.N. inspectors—or be prepared for the ultimate alternative, and that is basically to be subjected to a conflict that could go on for some time.

I see my good friend, the senior Senator from West Virginia, is seeking recognition. I will conclude with one reference: That we need to consider again the obligation that the energy conferees have. The conference is in order. The issues are being discussed. There is an issue, and it is the issue of opening up ANWR that is within the authority of the conference to bring back to the Senate for action. As the President well knows, the House has included ANWR in its bill and the issue is before the conference.

At a time when we are contemplating an action against Saddam Hussein, which certainly would result in an upheaval in the Mideast, it is imperative each Member recognize his or her obligation to address this with some finality. It simply makes sense to authorize the opening of this area so we can reduce our dependence on Mideast oil, particularly the sources we currently get our oil from, including Iraq and Saddam Hussein.

There is going to be an invitation by the conference to invite Members to ANWR, to Kaktovik, on September 13. Members should avail themselves of the opportunity to see for themselves that it could be opened up safely.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Alaska for his comments. There will come a time when the Senate should debate this question.

I compliment the distinguished Senator from Alaska on his concerns with respect to Saddam Hussein. I believe he said we have every reason to believe Saddam Hussein has developed a nuclear capability. I hope I am not misquoting the Senator.

In the days ahead, we will want to know what the evidence is. I do not intend to get into any long debate at this point about the matter because we have a bill before us with a pending amendment. We need to get on with that, but no Senator is seeking recognition at this point.

Perhaps Saddam Hussein has developed such a nuclear capability. When the able Senator says we have every reason to believe he has, that is not quite the point. Where is the evidence?

Of course, it is to be expected that some people in this country will assign unpatriotic reasons for the asking of questions by Senators. We have a right to ask questions, we have a duty to ask questions, because we are living in a very perilous time.

The war drums are beating all around us. I want to listen to what is said. I want to listen to what the President has to say. I want to listen to what he is going to say at the United Nations. I hope the United Nations will respond. I am not saying we in the Congress have to have authorization by the United Nations. Authorization is contained right here in this little book I hold in my hand, the Constitution of the United States. This Congress has the power to declare war.

I, for one, am not going to hang my vote on an authorization by the U.N. for us in this Congress to do thus and so. We should know what the United Nations has to say. I think the United Nations should take a position. If the straits are as dire as we hear, then the United Nations ought to be concerned. And the United Nations ought to give the world the benefit of its opinion. I am glad the President is going to the United Nations.

I am breaking our own rules here. I ask unanimous consent, although the Pastore rule may not have run its course, I may speak on a different subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. The United Nations, I think, has a duty to let the world know where it stands and what its opinion is. If this country is going to eventually go into a difficult situation, as may confront us, if war is declared by this legislative branch, or if war is approved, authorized, by this legislative branch, then we in the United States should not have to go it alone.

But when we say we have every right to believe that Saddam Hussein has developed nuclear capability, well, we have every right in our minds to think perhaps he has, and we can easily convince ourselves, but is that enough? Where is the evidence?

I, for one, intend to ask questions as we go along. It is not unpatriotic to ask questions. I intend to ask questions. I have a right to ask questions. Where is the evidence? We might think about that as we go along.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003—Continued

Mr. BYRD. Mr. President, I hope Senators will come to the floor if they have anything to say by way of debate on the pending amendment, if they have an amendment to the amendment. I hope Senators will come to the floor and exercise their right to offer amendments, or to speak. But we do not have the time to waste by just waiting and letting the clock run.

This afternoon, the Senate will be debating the homeland security legislation. Take a look at the situation we are in. October 1, a new fiscal year, is rapidly approaching. It is staring us in the face. Not one appropriations bill has been sent to the President for his signature. Where is the other House, where is the other body, on this matter? I don't seek to point the finger, but the facts are the facts.

The Appropriations Committee of the Senate, which I chair, and the distinguished former chairman, just preceding me, Senator STEVENS, he and I and others on the committee, Republicans and Democrats, have reported out 13 appropriations bills. We did that before the recess. We in the committee have done our work. Where is the House? Why doesn't the House report? I have to be careful about criticizing the other body. I don't criticize. I simply ask the question, Where is the House in this matter?

The House has acted on the House floor on, I believe, six bills; I believe I am correct. The Senate on the floor has acted on, in the past, three appropriations bills. One is now pending. But all the appropriations bills have been

reported by our Appropriations Committee in this Senate. We did that before the recess. We need other bills from the House. The Constitution does not say appropriations bills have to start in the House. It says the revenue bills must, the revenue-raising bills, but not appropriations. However, by custom, the House over the years has generally initiated the appropriations bills. I don't have any quarrel with that.

So where are the other bills? Our time is fast running. The new fiscal year begins on October 1. Here we are, the Nation is confronted with some great questions. The question of homeland security, that is homeland defense. That is the defense of our country, our families, our children, right here in this country.

We have legislation before the Senate that deals with homeland security. We need to get on with it or we need to take our time. And here again we need to ask questions—that is what I have been doing—on homeland security. But where are we? Here we are with three Senators on the floor. Now, Senators are busy. There are committee meetings going on, I know, right now. However, I urge Senators to come to the floor and get this bill going and try to pass it.

Tomorrow, a good many Senators are going to New York City. I am not, but a good many Senators are going to New York City. I don't believe I need to go to show my concern for what has happened. I have reacted as chairman of the Appropriations Committee, I and Senator STEVENS, Republicans and Democrats on that committee have reacted, have responded to the needs of New York City. We have done the best we could. We have appropriated $20 billion. So we have responded. I feel sorrow and the need for comfort as much as anyone, but I make the point here that I am not going. I think we ought to be right here doing our work. We have plenty of it to do and not much time.

Look at the calendar, and you will see how squeezed we are to get our remaining work done. We have homeland security. We have nine more appropriations bills to pass in this body after this bill that is before the Senate is acted on. Then we have to go to conference. And here we are, the calendar is running.

I have taken a good bit of time on this point to say this. I don't want anyone to misunderstand my remarks. I have my own viewpoint. As Popeye used to say: I am what I am, and that's all I am. So I have my viewpoint. But it is not my will that should be done. We have work to do, and we ought to be here doing it. We ought to be here right now moving on with it.

The distinguished ranking member is here at his post. He and I have offered amendments on behalf of the Members on both sides. Where are the other Members who have amendments? Where are they? The first question that was ever asked in the history of mankind was the question: Where art thou? And God, walking through the Garden of Eden, in the cool of the day, said: Adam, Adam, where art thou? That was the first question that was ever asked in the history of mankind: Where art thou?

If I might just pick up on those words—that is all that I, this humble piece of mortal clay can do, is ask: Where art thou? Where are the Senators? Where are we?

Let me say again with apologies to Senators, I know they are very busy. But those who have amendments ought to come. This floor is open and will be. I will take my chair at any time somebody comes in the door.

So: Where art thou? Senators, hear me, come to the floor, offer your amendments; let's have votes and move on.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, the Senator from West Virginia makes a good point. We always hear about those who want to come and make their statement regarding any piece of legislation. Then we go at breakneck speed and grind to a halt. That seems to be what we have done.

Let me just say a few words on behalf of the drought amendment that is before the Senate. We are concerned about the drought as it happened in this area that has been expanded. We have been in a drought situation in Montana for about 5 years. We have been, not only in a situation of summer drought and no summer moisture, but also in the area of low snowpack in the Rocky Mountains, in the areas that feed the irrigation water and stock water and many other amenities that have been provided by that wonderful element. But this year, that drought expanded. It expanded to our neighbors to the south, Colorado and Wyoming, the western Dakotas, and Kansas. Some would say that is almost the breadbasket of this country.

I had an opportunity to drive through those drought areas in western Kansas and Colorado and western Nebraska, and I would say the stories I heard and the history we have studied of the great drought of the dirty thirties—if we were using the same farm way of doing business that we did then, we would probably be back in a dust bowl situation in the Midwest. That is how dry it has been—just no rain at all.

So this is needed legislation. It is not just legislation that has come as a whim to anybody who lives in the heart of this country.

Was all of Montana affected by drought? No. We are a large State. We are 148,000 square miles—not quite as big as Texas, not quite as big as California or Alaska. Nonetheless, if you measure in air miles from the northwest corner to the southeast corner of my State, it is further than from here to Chicago—from Washington, DC, to Chicago.

In the northeastern part of the State, we fared pretty well with crops, grass. But as the rangeland has droughted out in the last 5 years, we have seen a decline, also, in the numbers of livestock. That not only affects our farm income but also our tax base. It affects us in many more ways than just the loss of the numbers of cattle or the loss of a crop.

So this is needed legislation.

We have tried, now, for better than a year and a half to provide relief for those who have been affected by that weather pattern. We have an opportunity here to pass this legislation. The chairman of the subcommittee and the chairman of the full committee is right on when he says we should be moving on this piece of legislation. In fact, it should be off from the Senate tonight, to be honest, probably, if we had the full days to work on it. But everyone knows we move to homeland defense, homeland security, later and we are paralleling these two pieces of legislation.

This particular appropriations bill always draws a little bit of attention because it deals with sensitive areas: Our national public lands and our parks. As many people as there are in the world, there are that many opinions as to how we should manage those public lands and those parks. So it brings diverse ideas, different ideas, and many of them come to this floor. However, we have been lacking that debate in the last 2 days, and that causes some concern, I suppose. Nonetheless, we should be moving along.

I urge my colleagues, especially those on this side of the aisle, that if they have amendments to offer or want to speak on the issue that is before us now, to do it now. It will not be long before we will be to noon, and at that time we go into morning business and then, after that, homeland security.

I stand in support of the chairman of the committee in asking our colleagues to please do that. I know we are working feverishly to clear more amendments. We have already done some of those, and the staff has just done wonderful work in narrowing down our work on the amendments that were offered by Members of the Senate.

Seeing no other Senator standing with a request to speak, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, we now have a number of issues pending on this important piece of legislation. But the one issue that is pending that we need to dispose of today is drought assistance. People on both sides of the aisle need to move this issue for their constituents. It is an important piece

of legislation. We have been waiting—yesterday and today—for people to come to speak against it. We have had no one come to speak against this piece of legislation.

That being the case, I am going to move to waive all points of order dealing with this amendment. I think that should be done. I intend to do it very shortly.

Some people may not like it, but the fact of legislative life in the Senate is that we are going to have to vote on this legislation. We should move forward on it. Once we get it out of the way, we can move further down the road.

The two managers of the bill have acted on a number of amendments today. We could complete this bill very quickly. We only have an hour left today.

The amendment now pending before the Senate is the drought assistance amendment offered by Senator DASCHLE.

Is that correct?

The PRESIDING OFFICER. That is the pending amendment.

Mr. REID. Mr. President, at this time, I move to waive all points of order relating to this amendment.

Mr. BYRD. Mr. President, will the Senator yield before he makes that motion?

Mr. REID. I would be happy to yield.

Mr. BYRD. Mr. President, the Senator has the floor and certainly has the right to make that motion. Would he mind, now that he has announced his intention, to go through a quorum call and get consent that once the quorum call is completed he retain his right to the floor? Certainly before he makes the motion other Senators may come; they will know. They will know from having heard this that business is moving and that we can't continue with the luxury of waiting until next week.

Mr. REID. Mr. President, the experience and wisdom of my friend from West Virginia has prevailed in the past and will this time. I think his suggestion is a wiser choice. I withdraw my motion.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. REID. Mr. President, I indicate to all assembled here that we need to move this amendment along. I have had a number of people indicate to me that they do not like this amendment, but they can come and talk about it. This isn't just going to go away. I hope we can do that very shortly.

I would also indicate that Senator HARKIN is here wishing to offer a sense-of-the-Senate resolution.

I ask unanimous consent that I retain the floor when the quorum is rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CARNAHAN). Without objection, it is so ordered.

Mr. REID. Madam President, we are in a Senate kind of situation here. We have both managers of the bill who support the amendment offered by the majority leader. I believe we have a significant majority of Senators who support the Daschle amendment. But we are in a posture where we have people—unknown, unnamed—who do not like this amendment.

As I indicated earlier, we are going to move to waive points of order on this amendment. We are not going to do it now, as Senator BYRD suggested; we will do it at a later time. To get people to come over who oppose this amendment would be the most appropriate thing to do.

In the meantime, Madam President, I ask unanimous consent that the Senator from North Dakota, Mr. CONRAD, be recognized for up to 10 minutes to speak on the underlying legislation and that the Senator from Montana be recognized for up to 10 minutes to speak on the legislation. Following that, I ask unanimous consent that, after calling off the quorum call, Senator BYRD be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I would therefore ask we go forward with the 10 minutes, and the 10 minutes, and then, if there is a quorum call, the Senator gets the floor. I think it might be better if he just got the floor after this. Let's do it that way. After they finish their speeches, Senator BYRD gets the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

Mr. CONRAD. Madam President, the amendment before us is critically important to many parts of the country. It is certainly critically important to my State.

This has been a year of extremes. In southwestern North Dakota, it has been the worst drought since the 1930s. If you went to southwestern North Dakota, what you would find is it looks like a moonscape. We have had wildfires, the most extensive in my lifetime.

We had, in one part of south central North Dakota, a wildfire that burned 35,000 acres. That burned an entire town, the little town of Shields, ND. Hundreds of buildings burned up. The only two buildings that survived were the bar and the church. It is amazing what happens in these circumstances.

I was there the morning after that dreadful night, and I met with the ranchers. One rancher had been up fighting fires for 72 hours.

As he slumped in a chair, he told me: Senator, if there isn't assistance coming, I have to liquidate my herd and I am out of business.

Of course, he would have to liquidate his herd at the time prices are plunging; ranchers all over the region are liquidating their herds because there is not feed for their cattle. It is happening in Montana, North Dakota, South Dakota, Nebraska, and Kansas, right down the heartland of the country.

At the same time the whole southwestern quarter of my State is hit by the worst drought since the 1930s, in the northeastern quadrant of the State, we have had hundreds of thousands of acres that couldn't be planted because it was too wet. What a remarkable set of circumstances.

In northeastern North Dakota, in a 24-hour period, we got 12 inches of rain—12 inches of rain in a State where we average 18 inches of rain in a year.

Hundreds of thousands of acres were destroyed, much of it never planted. Some 3 million acres in my State were never planted. This is a disaster by any description.

What we do here determines whether or not people go under or survive. Some have said: Look to the farm bill for your assistance. There are no disaster provisions in the farm bill. I was one of the conferees on the farm bill, along with the distinguished chairman of our committee, the Senator from Iowa. We had disaster provisions in the farm bill that passed the Senate, but when we went to conference, those who represented the House told us there were two issues they could not discuss in the conference. Those two issues: Opening up Cuba for trade and disaster assistance.

They said those had to go to the Speaker of the House. And when the majority leader called the Speaker of the House, he said unequivocally: No disaster assistance, period, in the farm bill.

The conferees from the House side said that later on in the session it would be possible to consider disaster assistance, but it was not possible in the farm bill.

So when the White House says to farmers in this country, look to the farm bill for disaster assistance, there is no help there for disasters. It was specifically precluded by the speaker of the House of Representatives, supported by the President of the United States. There is no disaster assistance in that farm bill.

I just held a hearing in my State on this issue. The Governor of the State, a Republican Governor, the commissioner of agriculture, a Democrat, the leaders of the farm organizations—some Democrats, some Republicans—were present. What unified them was the dire emergency that exists, the urgent need for aid. Every single witness at the hearing, and everyone in the crowd who spoke, delivered the same message: Unless there is help coming, thousands of farm families are going to be forced off the land.

They made it very clear. The commissioner of agriculture said the losses in North Dakota so far are over $800 million. In Washington, $800 million is not a lot of money. In North Dakota, $800 million is a huge amount of money. It will condemn to failure thousands of farm families if there is not assistance coming from here.

Every time there has been a natural disaster in any part of the country for as long as I have been in the Senate, this Nation has responded. We have declared an emergency. We have provided the money. We should do no less here.

It is not just North Dakota. It is the flooding in Minnesota, the worst floods in their history. It is disaster in our neighboring State of Montana, our neighboring State of South Dakota, and, as I indicated, right down the heartland of the country. We have seen the worst wildfires in history in Colorado and Arizona—all of this because of overly dry conditions. But there are parts of the country that have had flooding and, as a result, crop failure.

This bill costs over $5 billion. We know that. We acknowledge it. But what has not been discussed is the substantial savings in the farm bill because of these same conditions. There are billions of dollars of savings in the farm bill because prices are higher than were anticipated at the time the farm bill was written. Why? Because of these disasters, there is less production. Therefore, prices are higher than were anticipated. As a result, there will be substantial savings in the farm bill.

I have asked the Congressional Budget Office to reestimate the farm bill based on these most recent prices. I can tell you, it will mean billions of dollars of savings in the farm program itself. But those dollars are not available for the disaster program unless we pass one.

This is an emergency. Always we have responded to natural disasters. Whether it was hurricanes in Florida, earthquakes in California, flooding in Missouri, or drought in other parts of the country, this Nation has rallied as one to provide assistance.

I was very interested to see the President supporting disaster assistance for eastern Europe at the very time I was home in North Dakota going community to community. We saw the President declare his support for U.S. assistance for disasters, flooding, occurring in eastern Europe. Well, he has a plan for eastern Europe. He has no plan for the heartland of America.

That cannot be the result. That is not fair. It should not be what we do. We ought to declare an emergency just like we always do. We ought to understand there are substantial savings under the farm bill because prices are higher than were anticipated because of these very disasters. And we ought to reach out a hand of help and hope to the hundreds of thousands of families across this country hit by the various natural disasters. That is the American way. It is what we have done consistently for others. We ought to do no less now.

I urge my colleagues to join to pass this urgently needed legislation. We have helped you when you needed assistance. We are asking now for the same consideration. At a time of devastating natural disasters, our region of the country needs help. We are not alone.

Even with higher prices than were anticipated, it is very important to understand that because production is dramatically reduced, USDA, just 2 weeks ago, indicated that net farm income would decline by a stunning 23 percent. That is what is going to happen because of this series of natural disasters.

That is a hit no part of our economy can afford to take. It is time to act. It is time to vote. We ought to have that opportunity. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, first, I thank my colleague from North Dakota. He made a very good point that I don't think has been emphasized enough; namely, the farm bill that this body passed and enacted into law because of the recent disastrous conditions occurring in America will result in fewer Federal payments, fewer dollars paid out than was anticipated under that bill. As my friend from North Dakota pointed out, it is billions of dollars in savings which largely will offset the cost of this bill.

My good friend further pointed out that farmers will receive payments under this legislation, disaster assistance, but will not receive it until this legislation is enacted into law. I thank my good friend from North Dakota for making that valid point. Some think that, gee, if we passed a farm bill, why do we have to pass agricultural disaster assistance which, for the 2 years—2001 and 2002—crop disaster program and the livestock assistance program scores at $5 billion. Crop Insurance is an important risk management tool but provides declining coverage in years of successive disasters. Emergency haying and grazing on CRP acreage is important. These are all pieces to the puzzle. The piece that is still missing—that producers are counting on the most—is emergency natural disaster assistance. I thank my friend from North Dakota for pointing that out.

Madam President, this is really pretty basic. Without our help, without passing agricultural disaster assistance for farmers and ranchers, this body will accomplish change in the future of rural America forever. We are at that point. After successive years of disaster, drought in Montana, we are at the breaking point.

If agricultural assistance does not pass, I can tell you that my State of Montana, and probably other States in the Nation—particularly the high plains States, and perhaps even the State represented by the occupant of the Chair—the rural American landscape is going to change forever. Small towns are going to die. People are going to leave. There is not going to be much left. We are going to be destroying a way of life.

It is that basic, that simple. It has been said this is a real emergency, a real disaster. That is an understatement. It will be changing the landscape of rural America if this legislation does not pass.

I want to read from a letter from Wells Fargo Bank, a national lending institution which has banks in Montana. This is from Alan Pearson, district manager:

> Wells Fargo has always had a number of tools at its disposal, recognizing that farmers and ranchers have cyclical years. As lenders, we have made all efforts to ensure that credit needs are met by providing operating lines of credit and equipment and real estate financing. In addition, where applicable, Wells Fargo is the principal provider and underwriter of Federal Crop Insurance.
>
> However, it is our sense that, without significant Federal assistance for our region, many farmers and ranchers will not make it. Private insurance and easing of credit requirements only go so far.
>
> A principal reason why the situation warrants Federal assistance is that surface and groundwater resources have depleted to a level that requires successive above-average periods of precipitation to bring water reserves back to normal levels.

I will repeat that. The situation has deteriorated so much that only with ''successive above-average periods of precipitation to bring water reserves back to normal levels'' will farmers begin to recover.

Continuing:

> These conditions have worsened over the last 3 years, and our analysis shows that farm income will suffer unless Government assistance is available.
>
> As you are aware, without specific and timely Federal emergency disaster assistance, many producers will face daunting challenges in their operations.

Unfortunately, a natural disaster is not only a condition in just a few States, as of July 22, 49 States are impacted by drought, and 36 percent of our country is currently classified at some level of drought. More than 40 percent of our Nation's rangeland is currently rated as poor or very poor. This is an issue that cannot be ignored.

The Senator from North Dakota mentioned the problems in conference, trying to get the other body to agree, and the Speaker has basically said no. I hope very much the Speaker reconsiders, that the White House reconsiders and realizes that there is such an emergency that we must pass this legislation.

I am pleased more than a fifth of the Senate has cosponsored this amendment. I will read some of the organizations that proposed this and endorse it: National Farmers Union, American Farm Bureau Federation, National Cattlemen's Beef Association, American Corn Growers, American Sheep Industry, American Soybean Association,

National Association of Wheat Growers, National Barley Growers, and a number of others.

I want to make another point that has not been made enough. There have been many references to the Dust Bowl years in the thirties. Some farmers tell me—very respected farmers whose operations have been in families for years—that this is even worse than the thirties for two reasons: Basically, in the thirties, there was 1 year with a little precipitation that broke the drought a little bit. But, more important, in the thirties, we did not have something called CRP. We did not have the Conservation Reserve Program. Many producers in my State have put their land in the CRP. What is CRP, for those who don't know? The CRP is the program the United States provides for farmers so they can take their land out of production and put it into grassland, in reserve. That is the Conservation Reserve Program. It helps the environment and helps game and birds and so forth. It is also a way for farmers to cash flow during years of drought.

Because of better farming practices today, we do not have the Dust Bowl situation. If we continued to use the same farming practices today, we would be back to the situation of the thirties. You would see wind blowing dust across the Nation. It is because of our better farming practices that we don't have quite the Dust Bowl situation that all Americans at that time knew about.

That leads me to another point. If a major U.S. company loses 20 percent of its income, which is in the quarterly reports, the stock goes down, it is in the newspapers, and everybody knows about it. Or if an industry loses a huge percentage of its income, or people go bankrupt, such as Enron and WorldCom and others, everybody knows about those bankruptcies because they are in the newspapers. People do not know about the individual farmers and ranchers who have to sell out because they, in effect, go bankrupt because of Dust Bowl situations, because of lack of income, and because of successive years of drought. Producers in my State have lost more than 20 per cent of their income for 4 consecutive years. There isn't another industry in America that could do that and still be standing. We should all be grateful that they are still in business because they are the ones who ensure that we have food on our plates.

So it is our responsibility, as representatives of our States, to make this known to the world—particularly to the country and the Senate—so that our colleagues have an appreciation of what we are experiencing in Montana and in other Northwestern States. It is that serious.

As has been pointed out, this body has responded to other emergencies—floods, tornadoes, earthquakes, the Trade Towers, and it was more than appropriate; everybody rushed to help. But we have the same emergency, the same disaster conditions today, but it is not as well known because it is a slow disaster. Mother Nature sometimes rains in parts of our State and not in others. Drought disaster is not as visible as, say, a WorldCom bankruptcy or an Enron bankruptcy; but it is just as important—in fact, even more important to those people who have to leave those communities and to those communities and towns.

I plead that Members of this body vote overwhelmingly to help people who are facing disaster. I ask the body to also recognize the disaster we are facing. I ask the President of the United States to reconsider and agree and recognize that we have a disaster in the heartland of America, and we have a responsibility collectively, as the people's representatives, to help the people we represent and support disaster assistance. It is the only thing we can do.

I yield the floor.

Mr. CONRAD. Will the Senator yield?

Mr. BAUCUS. I will be glad to yield to my good friend from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, I say to my colleague, we deeply appreciate the information he has provided on this issue. It was the Senator's amendment that prevailed in the Senate farm bill to provide disaster assistance in the first place. Nobody has understood better than he the consequences and the magnitude of this disaster. Perhaps no State has been harder hit than his own.

I want to stand and acknowledge the leadership of the Senator from Montana on this issue and thank him publicly on behalf of the people I represent and the other people affected in other States for the diligence of the Senator from Montana. He has been relentless in getting disaster assistance for our people, and I want to thank him for it.

Mr. BAUCUS. Madam President, I thank my good friend from North Dakota. We are all in this together. This is teamwork. By working together—both sides of the aisle—representatives and the people, we are going to get this passed because it is so necessary and so important. I thank my good friend, as part of the larger team.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is to be recognized at this point.

Mr. BYRD. Madam President, I do not wish to have the floor at this moment. It may be the distinguished Democratic whip will have need for the floor, or any other Senator for that matter. I yield my time back.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, we have a number of people who wish to speak this morning. We have some who I understand want to speak against the amendment. They have not shown up yet in 2 days, but I assume they want to speak.

I indicated to the staff of the minority that we would like to extend time on this bill until 12:30 p.m. today. I will not put that in the form of a unanimous consent request until I hear from the minority. That is what I would like to do.

It is my understanding the Senator from North Dakota wishes to speak on this legislation for up 10 minutes. I ask unanimous consent that the Senator from North Dakota be recognized to speak, and that following his statement, I be recognized.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I listened attentively to my colleague from North Dakota and my colleague from Montana. Their remarks about this issue describe how important it is for us to enact legislation dealing with this disaster.

I thought I would bring a poster that shows a picture of two parts of North Dakota: One State, two extremes. This top picture shows a farmer/rancher down in the southern part of our State standing in an area that looks very much like a moonscape. There is no vegetation left. This is completely dry and pretty well dead. This is a drought area that has consumed a significant portion of the southern part of our State, and it has been devastating to those farmers and ranchers trying to make a living down there.

This bottom picture was actually taken on the same day in the same State, but this is a different part of the State. This is an area that received 12 inches of rain in 1 day. This is a farmer who lost everything.

These pictures are representative of a wide group of producers in our States. We call them producers, but they are family farmers. They risk all they have to try to raise a crop and have a livestock herd that can make it through good and bad times, and then try to take the crop or the livestock to market and make some money.

They are discovering this year, as is much of the country, that trying to tend a herd of livestock or raise a crop is very difficult in the circumstances that exist. We have a disaster that has occurred over a substantial portion of this country. This is the Palmer Drought Index. One can see over a substantial portion of the country where there is massive drought.

Some people say: So what? So what about family farming? Will Rogers many years ago said: If one day in this country all the lawyers and the accountants failed to show up for work, it would not be a very big deal. But if on that same day all the cows in America failed to show up to be milked, now that would be a problem.

He was, in his own way, trying to describe the importance of family farmers, the importance of production agriculture. Production agriculture, from our standpoint in North Dakota, is families out there living under a yard light trying to make a go of it by

planting seed in the spring and having every hope perhaps that seed will grow into something they can harvest and take to the market and be able to recapture their living expenses. They live on hope.

We have seen now over recent years weather patterns that have devastated large groups of family farmers. These clearly are disasters. When you have a drought of the type we have had, it is truly a disaster.

If tonight 1,000 tornadoes spring up and move relentlessly across the prairies or the western part of the United States and destroy all the structures and the vegetation, that is a disaster. Tomorrow we would have FEMA, we would have trucks, we would have armies of people moving because the headlines would be: This is a disaster, and we have to move and deal with it.

It does not matter whether it is drought, flood, earthquake, fire, or tornado. The devastation and destruction that occurs to the crops of tens of thousands of family farmers is a disaster, and we need to respond to it.

I am proud to say that in every set of circumstances in my service both in the Senate and the House of Representatives, when there has been a disaster and a proposal on the floor of the Senate to respond to that disaster, I have said yes. It does not matter to me where it is in this country. If there are cities, counties, States, groups of people in this country who have suffered a disaster, then I want to be a part of the voice of this Congress that says to them: You are not alone. This country wants to help.

I want to be, and have always been, a part of a group in this Congress who says we want to extend the helping hand of America during a time of disaster.

That needs to be the case now with respect to the disaster that occurs on family farms in this country because of this relentless, gripping, devastating drought in some parts of the country and, in other parts of the country, flooded lands.

There are a good many ways to deal with disasters. Some disasters might be just a single farm disaster. When I was a young boy, a good friend of ours named Ernest died. His crop was still in the field. He died of a heart attack one evening. The neighbors gassed up the combines and the trucks and went over and harvested the crop and took it to the market for Ernest's widow. That is just the way it works. That is what neighbors are about. That is what communities are for. But that is a disaster of one farm where neighbors can solve the problem.

In a disaster of this type where you have this relentless drought that has destroyed so many acres, so many crops, so much pastureland, neighbors are in the same shape. They are all devastated by this drought and all losing the opportunity to make a living.

Some say: All you do is talk about farmers. This is not just about farmers. It is about those communities and small towns, medium-size towns across the heartland of our country. It is about rural businesses. It is about the local grain elevator that does not have any grain to handle. The local feedstore that is not going to sell any feed. It is about the machinery dealer who is not going to sell machinery. It is about jobs in the manufacturing plants that produce that machinery to process that feed. So it is much more than just family farms.

This is a circumstance where we need to take action now. I happen to think family farmers are America's economic all-stars. They produce, produce, produce in a prodigious way. It has always baffled me that farmers are accused of being guilty of overproducing. We have a world in which a half a billion people go to bed every night with an ache in their belly because they are hungry, and our farmers produce food and are told the food they produce has no value.

Are they nuts? Of course, it has value. This is a hungry world. We need to be smart enough to connect it all. Our family farmers are enormous producers and have done very well, but they suffer disaster. They are individual, small economic units. They are up against the weather. They are up against insects. Once they plant that seed, they might lose their crop to a drought. They might lose it to a flood. They might lose it to insects. They might lose it to disease. They might lose it to hail. They might lose it to wind. And if they manage to not lose it to any of those things and they get a crop off by harvesting it in the fall, they might find out they lose their value by going to a country elevator and discovering the grain trade has told them their food in a hungry world has no value.

So these farmers suffer all of those risks and more, but they cannot cope with the kind of relentless drought that exists in this country in a way that devastates individual producers in State after State.

This is an important issue. It is not parochial. It does not deal with just a few problems in a few areas. What has happened in this country is we have passed a farm bill that tries to help farmers during collapsing prices. That is a significant problem and a significant achievement, to pass a farm bill that does that. But if one does not raise a crop because of a disaster price protection, it does not help; there is no protection at all. That is why a disaster declaration and a disaster bill dealing with these issues of drought and floods for preventive planting and destroyed crops is so very important.

We need to do this, not tomorrow, not next month, not next year; we need to do it now. If we fail to do this now, there are a good many families who will lose their hopes and dreams for the future. They will not be around next spring. They will not be there because they will not be able to continue farming. This is an important and good investment for this country to make. It invests in the American dream for family farmers, for family entrepreneurs, and I am pleased to be a part of a group that has brought it to the floor of the Senate, and I am pleased today to support it.

This is an urgent need. Congress needs to pass this, and we need to pass it now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, we have a number of people wishing to speak on this amendment, all of whom are in favor of it. After 2 days, we have not had anybody speak against it, but they will not let us vote on it.

I have a unanimous consent request I will make, but I have to wait until we get approval from the other side. It is my understanding the Senator from Louisiana, Mr. BREAUX, wishes to speak for 3 minutes. Following the statement of Senator BREAUX, I ask unanimous consent that I again have the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana.

Mr. BREAUX. Madam President, I say to my colleagues who have spoken previously on this amendment, I join with them as a cosponsor of this legislation. The previous speaker from North Dakota was absolutely correct when he pointed out this is not a parochial issue.

I am not from Montana. I am not from North Dakota. I am not from the Great Plains. In fact, I am as far away from these States as one could probably be and probably still be in the continental United States.

Being from Louisiana, we traditionally do not have a lot of problems with drought. As a matter of fact, it is very common for Louisiana to have 8, 9, even 10 inches of rain during the summer months in one afternoon. Our problem in many cases is not drought but too much water. We were jokingly talking about how we could be of help by somehow reversing the flow of the Mississippi River from north to south and changing it from south to north and sending the excess water we frequently have in Louisiana to our friends and neighbors in farms in the Great Plains, the Midwest. That is a novel idea, but it is not going to happen.

Until something like that happens, it is very important to be able to try to recognize this is a national issue. Whether one is from South Dakota or from Louisiana, it is very important when farm organizations and groups in one part of the country have a problem that is not through their own making, we in other parts of the country recognize it and help to contribute.

One of the provisions that is a defect in the farm bill is that when someone has a disaster, they can receive disaster loans. The last thing a person

who has no crop needs is more debt which they would incur by having an additional loan.

The program we talked about in the past really does not particularly address the situation where farms are literally wiped out of any production because of a flood or because of a drought, thus preventing them from harvesting a crop. Having a loan in that circumstance does not help the farmer. They cannot pay back the loan if they do not have a crop. It is just that simple.

Therefore, in the interest of trying to be of help from a national perspective, this legislation has been brought to the floor. It is absolutely essential. Because of the way the system works, it will ultimately save the Government money. By helping now, we avoid greater debt and greater losses in the future. So I strongly support this effort.

We have our own unique problems right now. In my State of Louisiana, particularly in the rice industry, we are looking for ways to help solve some of the problems our farmers are experiencing because of some of the lowest prices in decades.

Our farmers are not going to be able to make it, not because of a drought or because of a flood but because of the potential of an economic disaster which Congress should be addressing as well.

In the meantime, this is the right thing to do for a disaster that is being caused by a drought. I strongly support it, and I urge my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent that the Senator from Michigan be recognized to speak for 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask unanimous consent that I retain the floor following her statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Madam President, I urge in the strongest possible terms that we pass this disaster relief package. The years 2001 and 2002 have been absolutely devastating years for Michigan agriculture. When I was home in August, I had an opportunity to visit from northern Michigan down to southern Michigan. To show the sense of urgency felt, there was an ad hoc group that put together petitions and cards. The Michigan Agricultural Industry Alliance and others, Lee Lavanway from Eau Claire, MI, in the southwestern part of Michigan, put together over a thousand petitions and cards desperately calling on us to act on behalf of American agriculture. I urge that we do so.

In the year 2001, 82 of Michigan's 83 counties were declared a disaster because of drought. Early frosts and then flooding later in the year also contributed to considerable crop damage. Secretary Veneman issued another disaster declaration for 2002 covering 50 counties.

In 2001, yields for program crops, such as corn and soybeans, plummeted. Other crops, such as grapes and beans, had monumental losses. 2001 was the worst year in recorded history for dry beans in Michigan. In fact, earlier this year Bob Green of the Michigan Bean Commission testified before the Senate Agriculture Committee about this issue.

The 2001 year drought also devastated sugar beet crops. The grape growers in Michigan have struggled with not 1 but 2 devastating crop years. The extreme, record-high temperatures during the week of April 14, followed by freezing temperatures shortly after that, have caused great damage in our fruit and vegetable crops. I have heard from apple, grape, peach, asparagus, raspberry, and other growers who have had very bad results—in fact, devastating results—as a result of the bad weather.

In July, I visited tart cherry orchards and witnessed with my own eyes the devastation that followed that bad weather. There is not a single cherry on any of these trees. We are not talking about less of a crop, we are talking about no crop. One of the farmers told me he did not have enough in his entire orchard to make one cherry pie.

When we look at this, it is astounding what has happened to Michigan agriculture and to our farmers. The lack of crop in Michigan has a ripple effect on our entire economy. Processing facilities are laying off workers. There is a lower demand for agricultural machinery and supplies.

To give an idea of the importance of these lost crops, fruit production contributes $235 million to the economy of the State of Michigan.

I call on my colleagues, in the strongest possible words, to join together to pass, by a strong bipartisan voice, this disaster relief measure. I ask the President of the United States to join, to stand with us on behalf of our American farmers.

CLOTURE MOTION

Mr. REID. Madam President, we are very close to working out a unanimous consent agreement on the Harkin-Craig amendment which deals with Medicare and reimbursement of States. Senator HARKIN has been here literally all day trying to get a time agreement. We hope we will have the approval from the minority. They have agreed on the fact we should do this amendment. The only question now is the time that will occur.

In the meantime, we have had bipartisan support on the underlying Daschle amendment. We have had the manager of the bill, Senator BYRD, support it; the Republican manager of the bill has supported it, Senator BURNS. In fact, Senator BURNS is a cosponsor of the amendment. At last count, we had 18 or 20 cosponsors of the amendment.

The problem we have is under the Senate rules, there can be a couple of people who will not allow us to go forward on legislation. That is what we have here. It is too bad. We have tried everything we could to get a vote. It appears to me that probably what we will have to do is go forward with a cloture motion on this amendment. That would be the best thing to do. I hope that can be done. Under the constraints of time we have we need to do that before the noon hour. I am confident we will have the necessary signatures on the petition to do that.

As I indicated, there is overwhelming support for this amendment. This is something that all farm State Senators believe is important. For those not in the heavy agricultural areas, it is something we believe is fair and reasonable that should have, frankly, been done some time ago. It is good that we are in a position to move forward on this.

I, therefore, send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on the Daschle amendment No. 4481.

Harry Reid, Byron L. Dorgan, Kent Conrad, Tom Harkin, Jean Carnahan, Max Baucus, John Breaux, Patrick Leahy, Edward M. Kennedy, Herb Kohl, Dianne Feinstein, Richard J. Durbin, Charles Schumer, Maria Cantwell, Deborah Stabenow, Tim Johnson, Arlen Specter, Tom Daschle.

Mr. REID. The staff is working to make sure we can clear the Harkin-Craig amendment. It is my understanding we are very close to that.

The unanimous consent agreement I will soon request at an appropriate time—which I will not do now—will ask consent the pending amendments be set aside and Senator HARKIN be recognized on behalf of himself and Senator CRAIG to offer an amendment on the sense of the Senate regarding Medicare; that there be 10 minutes debate with respect to that amendment, and the time be controlled between Senators HARKIN and CRAIG; that upon the use of time, the time be yielded back and there be a vote.

I hope we are in a position to offer that in the Senate at the appropriate time.

Madam President, the Senator from Pennsylvania wishes to speak. We have had a series of Democrats who have spoken. It is certainly fair he be allowed to speak. I ask unanimous consent Senator SPECTER be recognized to speak for up to 10 minutes and also that the time pending for the bill be extended until the hour of 12:15.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

IRAQ

Mr. SPECTER. Madam President, I have sought recognition to discuss the present grave concern in the United States, and for that matter, around the world, about the menace posed by Saddam Hussein and Iraq.

I am pleased to note that the President has announced his intention to come to Congress to seek authorization before there is any military action taken by the United States as to Iraq. Senator HARKIN and I had introduced a resolution back in July asking that congressional authority be obtained before any military action. The President, as Commander in Chief, under the Constitution certainly has the authority to act in times of emergency. When there is time for discussion, deliberation, debate, and decision, then under the Constitution, it is the authority of the Congress to act.

The events are moving very fast. There have been briefings of Members of the Congress by the Administration and there is a great concern, which I have personally noted in my State, Pennsylvania, on a series of town meetings across the State. Everywhere I traveled there was concern as to what action would be taken as to Iraq.

There was no doubt that the United States has learned a very bitter lesson from 9/11; we should have taken preemptive action against Osama bin Laden and al-Qaida. We had evidence against civilians in Mogadishu in 1993, and embassy bombings in 1993. In all of those events, bin Laden was under indictment. We knew about his involvement in the USS *Cole* and his proclamation for a worldwide jihad; preemptive action should have been taken.

Taking preemptive action against a nation-state would be a change in policy for the United States. It is my view that we ought to exhaust every alternative before turning to that alternative—economic sanctions, inspections, diplomacy.

We have seen a number of people very close to President Bush and to the first President Bush, come out and caution against action. We have seen General Brent Scowcroft, the national security adviser to President George Herbert Walker Bush, come out and raise a great many concerns about taking action without support from our allies. We have seen former Secretary of State James Baker raise an issue about going to the United Nations for inspections, which I think is a very sound point.

It is my hope that President Bush will go to the United Nations and will press to have inspections of Iraq proceed. The obligation for Iraq to submit to those inspections is an obligation which runs to the United Nations. Iraq's commitments to the UN have been flouted.

Former Secretary of State Baker makes the cogent suggestion that the United Nations ought to be called upon to take military action to enforce those inspection rights, if Saddam Hussein does not acquiesce. Certainly, if Saddam Hussein continues to stiff the UN, to thumb his nose at the UN, and thumb his nose at the international community, then there will be a stronger basis for the United States to act, if we decide that our national interests compel us to do so.

There is an obvious difficulty in communicating to the American people all that President Bush and the intelligence agencies know about the threat posed by Iraq and posed by Saddam Hussein. There is a problem, as we have seen from our experience, in telling the Congress, even in closed session, even in top secret briefings, where that information, regrettably, is disclosed to the press. Leaks in Washington are epidemic. However, if the Congress is to discharge its duty to pass on the question of what is tantamount to a declaration of war, a resolution authorizing the use of force, we have to know the basis on which we are acting.

There have been strong suggestions that there is very substantial evidence pointing to a clear and present danger now. We do know Saddam has chemical weapons. We do know he has used them on his own people, the Kurds. We do know he has used them in the Iran-Iraq war. There is substantial evidence about weapons of mass destruction and biological weapons. As best we know, Saddam Hussein does not yet have nuclear weapons, but how long it would take him to develop them is a question.

For the Congress to act, we really have to have this information, and the President has intimated, really suggested, that more information will be coming to the Congress. So far, I do not think we have seen the indicators of a clear and present danger, but that is something which will have to be taken up.

This is an issue which is now, obviously, on the front burner. There are indications that the President will seek a vote by the Congress before we adjourn. So it is a matter which will require very intensive consideration and analysis. However, it is my hope that when the President makes his speech at the United Nations next week, he will call on the UN to enforce the UN's inspection rights.

Recently, Senator SHELBY and I made a trip to Africa. Included in that trip was a visit to the Sudan. I had attempted to go there in the past and was advised against it because of the civil war, which has been raging in that country. We talked to U.S. intelligence personnel in the Sudan and found that they have worked out an arrangement with the Government of Sudan to make surprise inspections of weapons manufacturing locations and also on laboratories—going in with no notice, breaking locks, and taking photographs. They have concluded that, as to the installations they had identified and inspected, they were satisfied that there were no weapons of mass destruction being pursued by the Government of Sudan.

That could be a model to go after as to inspections in Iraq. Of course, it still leaves open the possibility that there are some locations about which we do not know. It leaves open the possibility that some of the weapons of mass destruction could be transported, could be moved around. However, I think it would be a very significant step. Then, if Saddam and Iraq refused to honor their commitments, it would put us on the high ground to take action in our own national interest.

I yield the floor. In the absence of any other Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. CANTWELL). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that the time for debate on the Interior appropriations be extended for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003—Continued

Mr. REID. Madam President, we are attempting to work out a time to vote on the Harkin amendment which he will shortly offer. We are very close to having that done. I suggest that Senator HARKIN go ahead and give his speech. If we can work out a unanimous consent agreement, he can offer the amendment, and then we can vote on it. He would give the speech now, and we would move to the amendment, if we could get the approval of the Senator from Montana.

Mr. BURNS. I have no objection to that.

Mr. REID. Madam President, I ask unanimous consent that the Senator from Iowa be recognized for 5 minutes to speak on the amendment which he will offer at a subsequent time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

Mr. HARKIN. Madam President, over 40 million Americans rely on Medicare for their health care security. For these Americans and their loved ones Medicare is a lifeline. And because of this Medicare must be protected and secured for today and tomorrow.

Medicare, however, is not without its problems. Clearly, its benefits package needs to be updated to include prescription drugs. Seniors shouldn't have to make the choice between the drugs they need to stay healthy and food or heat. The Senate should once again try to craft a prescription drug plan to fill this great need.

But there is also another problem with Medicare. And that is the principal subject of my sense-of-the-Senate resolution.

Americans, no matter where they live, whether it is rural Iowa or urban Florida, are taxed at the same rate to help pay for Medicare—1.45 percent of payroll for both workers and their employers. And Medicare beneficiaries—whether in Brooklyn, IA or Brooklyn, NY—pay the same monthly Medicare premium.

But while they pay the same taxes and premiums, the level of Medicare payments received by Americans often varies greatly from State to State.

For example, my home State of Iowa receives an average $3,053 per beneficiary, which is 45 percent less than the national average. Some States are much higher than that. But there is a disparity between, say, $3,053 and the top State, which is over $7,000. It is quite substantial.

And while some of the variation may legitimately be due to cost differences, costs alone clearly do not explain the degree of differences among the states.

Much of this unfair variation is caused by outdated and nonsensical reimbursement policies that penalize efficiency and conservative medical practices. Medicare assumes that it costs much less to provide health care in rural areas, and assumes that we still compete locally and regionally for health care professionals. Those of us in under-reimbursed states know that neither of these is true. Rural areas don't enjoy the economies of scale enjoyed by their urban counterparts, and we are competing in a national and often global market for health care professionals.

The impact is real. For example, if the same hospital in Des Moines providing the same services to the same seniors in Cincinnati, OH, it would receive $5.3 million more per year. If we put it in Ann Arbor, MI, it would receive $14.6 million more per year.

What is the result of this unfair variation? Well, in Iowa, one substantial result is that we have a shortage of virtually all types of health care professionals.

Low reimbursement equals low wages, equals health professional shortages. Iowa ranks 50th in Medicare reimbursement and we rank 50th in nursing pay. So it is no surprise that we have 3,000 unfilled registered nurse positions, another 728 vacancies for licensed practical nurses, and 2,700 openings for nonlicensed personnel. Add this to the fact that our nurses are getting older, not enough new nurses are entering the field, and Iowa has the largest population of any State over age 85, and what you have is a real recipe for disaster.

It gets worse. Medicare payments influence Medicaid reimbursement and private payer reimbursement. Because of this, Iowa ranks 49th in the ratio of general pediatricians per 100,000 children, and 50th in the ratio of OB/GYNs to 1,000 live births.

So it is no wonder we can't recruit and keep health care professionals. A physician performing a hip replacement in New York receives $1,807.25, while one in Iowa receives $1,304.09, and one in South Dakota only receives $1,286.46. The same amount of work, time, and skill goes into the same procedure. Yet there is a vast difference in the reimbursement to each provider.

It takes the same amount of education, skill, and time in Iowa as it does in other States, and these professionals should be reimbursed accordingly. So there are changes that must be made to bring greater fairness and improve the health care systems across the States.

There are many different proposals in the Senate that attempt to tackle this issue. I think people on both sides of the aisle can come together, as we have in the past, on this issue. I know we are very busy with many important pieces of legislation, including the homeland security bill and appropriations bills. But the resolution I am offering is very simple. Its resolve clause simply reads:

> Congress (acting through the appropriate authorization process) and the President should act promptly to address the disparity among the States in the amount of payments made under the Medicare program; and
>
> Legislation should be passed [promptly] that reduces unfair geographic disparity in Medicare payment rates and restores scheduled inappropriate reductions in Medicare payment rates.

So, Madam President, it is a very simple, straightforward resolution. It just says we in the Congress and the White House, the President, ought to do something very promptly to address this huge disparity among the States.

As I said, maybe you can have some disparity based upon rental rates and things like that. I understand that. But to say one State would get $3,000 and another State $7,000, this is just nonsensical. So the States that fall below the average are the ones that are getting hurt the most.

All my resolution says is that we ought to act promptly, in a bipartisan fashion, to address this issue and to make Medicare more even, more fair across the States. So I urge my colleagues to support this resolution.

I see my colleague in the Chamber. I did not see him on the floor. He is my colleague in this endeavor, Senator CRAIG from Idaho. He and I have worked together on this for a long time. He knows exactly what I am talking about because of the great disparity in his State.

I thank the Senator from Idaho for working in a great bipartisan fashion to try to get something done to resolve this issue.

I yield the floor, Madam President.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, I will speak only briefly to the resolution. The Senator from Iowa and I share, as I think all Senators who represent rural countrysides must share, a very real frustration in the disparity between urban and rural Medicare payment schedules and the reality that we are dealing with a 20- or 30-year-old concept that does not make sense anymore.

We have a phenomenal nursing shortage in our country today. So if a nurse lives on one side of a boundary line created by this law, she or he can well commute to the other side and we cannot afford them.

The Presiding Officer represents a city not far from one of my major cities: Spokane, WA, versus Coeur d'Alene, ID. Spokane, WA, has a different payment schedule than Coeur d'Alene, ID, and they are 20 miles of interstate apart. Many people say that living in Coeur d'Alene, ID, because of its beauty, is more desirable than living in Spokane, but they work in Spokane because of the wage scale and/or this particular problem.

As a result, the Kootenai Medical Center and, as a result, the rural medical communities of northern Idaho cannot, in effect, compete.

It is time that we address this issue evenhandedly across all jurisdictions so that Medicare payments are reflective of current health care needs; not a 30-year-old model that is just flat obsolete and does not make sense anymore, but because we build up these political barriers or frustrations we do not want to address them. I think we must. I think we should.

The resolution speaks to trying to move the Senate, the President, and the Congress as a whole in that direction.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, time on this bill is about to expire. I am going to ask to extend the time for a few more minutes. Let me just say to everyone, the reason for this is, in good faith we thought this matter had been cleared by everybody. The fact is, we had not received a signoff from Senator GRASSLEY and his staff. He is on his way over here, or staff is on their way over. I am sure, when they look at it, they will approve it, but it will take a few more minutes, so I ask unanimous consent that the time on the bill be extended until 25 minutes to the hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

What is the will of the Senate?

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. REID. Madam President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The legislative clerk continued with the call of the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, the Senator from Kansas wishes to speak on the underlying amendment. We have had a number of speeches today. Certainly we want him to do that. The problem is, within a minute or two we are off the bill.

I ask unanimous consent that the time for debate on the Interior bill be extended until the hour of 12:45, and that the Senator from Kansas be recognized for 5 minutes to speak on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

Mrs. FEINSTEIN. Madam President, I have no objection if by unanimous consent the morning business session, which was to go from 12:30 to 1, could be extended from 12:45 to 1:15 so that I might have an opportunity to deliver remarks for which I have been waiting.

Mr. REID. I think, in fairness, we should allot the Senators who want to speak in morning business the full hour. The Republicans are entitled to half an hour and the Democrats are entitled to a half an hour. As soon as we get this little dust-off taken care of, I will ask unanimous consent at that time that morning business be for 1 hour.

Mrs. FEINSTEIN. I thank the Senator.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Madam President, I come before the Senate today to address the majority leader's amendment which is intended to direct immediate financial assistance to farmers around the country who are facing an historic drought. Our Kansas State motto is Ad Astra Per Aspera—a beautiful saying that means ''To the Stars Through Difficulties.'' I have always thought that it captured beautifully the spirit of our State. It is part of our character to tackle calamity and to smile at threats that have consumed lesser men. During the August recess I spent several weeks touring our State and meeting with farmers about the drought. Its impact on our crops and our rural communities is staggering.

The drought in Kansas is one of the worst in a century. It is compared, by folks who know, to the dust bowl of the 1930's. Crops are withering and dying in the fields right under the watchful and woeful eyes of our farmers—farmers who are helpless to stop the conditions and helpless to prevent the circle of crisis from beginning. For what we all must remember is that blackened crops across the States are not just ''their'' problem or ''someone else's'' problem—it is our problem. The devastation brought on by persistent drought is in evidence all over Kansas. As I toured several affected counties, the widening economic impacts of this drought on our state were mostly overwhelmed by the urgency of the emergency. But by the end of my tour, I was reminded again and again that the true impact of this drought is not the plight of just farm families. The impact that many Kansans have yet to fully comprehend, is the toll this drought is having on our economy.

With more than 2 years of lower than average rainfall, it has become clear that our towns are feeling the effects of evaporating capital. As fewer farmers and ranchers collect on their investments, this mean fewer dollars for local coffers and diminished investment in new jobs, our schools and economic activity.

Leading economists in our State have estimated that just the crop losses alone have cost Kansans almost a billion dollars. This does not include any other ancillary or downstream economic costs that are sure to mount as this crisis deepens. It is for this reason that I will vote for this amendment, brought by the Senator from South Dakota. While I was disappointed that we were unable to work out a more bipartisan compromise, one that would have encouraged more farmers to purchase crop insurance and would have been balanced by offsets from other places in the budget, I will support this initiative and urge my colleagues to do likewise. This serious drought is a major threat to our Nation's economy, and we should act quickly to get relief to our farmers.

This is an issue of key importance to my State. As I said, over the August break I traveled extensively across Kansas and witnessed the drought we are experiencing. We have parts of the State that have had less rainfall than at any time since 1895, including all the Dust Bowl years when we had the terrible experience of the wind blowing soil in dark clouds. During the day you couldn't even see the Sun because there was so much dirt in the air. That was due to both agricultural practices and lack of rainfall. Now we have better agricultural practices, but we have a lot less rainfall. It has been a disaster in a number of areas.

There are whole counties that haven't had any rainfall at all. I looked at a lake near Jetmore, KS, that has a normal surface area of about 100 acres and is now down to less than 10 acres. It is because of a lack of rainfall. I saw whole fields where nothing has come up because of lack of rainfall.

Fortunately, some areas of the State are getting some moisture now, but it is not enough. The crops have already died for the year. It will help, hopefully, on winter wheat planting that will now begin in some places.

What compounds the problem we are having today and why we need the drought assistance is that the new farm bill doesn't work particularly well in a situation such as this. Some agree with the increased impact and use of loan payments. I happen to disagree with the farm bill. The problem is, with the loan payment, you need a crop to be able to borrow against to then use it and to default on it and get paid. That way, if you don't have a crop, you can't use the loan payments. So you are caught that way as well.

There is a problem with countercyclical payments. You get in a drought situation, your crop reduces. The supply reduces, and generally where supply goes down, demand stays steady, the price goes up, and the price has gone up for some crops. Not enough; it should be up more. But your countercyclical payment doesn't help because when your price is going down, you get more payment. But when the price is going up, you get less payment.

The farmers in Kansas, in particular, are caught in a double vice. They have problems with the new farm bill and its impact because of the drought and the lack of a crop, and then we are getting caught in the loan payment scenario situation we have in the countercyclical payments not being helpful to them.

Overall, we need the help. It would be a much better situation if we were this fall getting the double AMTA payment that normally had been coming through this body. That would help more people. It wouldn't be dependent upon crop production. They are not going to have that. That is not going to be the situation. That is why we need this drought assistance.

I think it would be better if we had an offset to it. That would be a wiser way, given the budgetary situation we are in today. We could find that in other places. Although some of my other colleagues are saying they don't want to go with an offset. Reaching $157 billion in deficits this year points to the way we should be looking for offsets to be prudent in future years and for future generations so that we don't overspend what we have.

To sum up, we need this help. We need it because of the drought. We also need it because of the new farm bill. This will help our farmers at a time and a situation and a place that they need it. It should be offset. I don't know that we will have that vote to be able to move that side of the issue forward.

In my State we are looking at a $1 billion loss because of the drought. That is going to impact our farmers and farm families. It will also impact our communities and our entire State. This will be an important measure to get passed. I am hopeful we can make it happen.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, it appears we will not be able to work this out so we can have a vote on the Harkin amendment. Therefore, I think what we will do is try to have a vote next week on the Harkin amendment.

If we can't do it on Monday, we will do it on Tuesday, Wednesday. Sometime before we finish this bill, the Senator from Iowa is going to offer his amendment.

That being the case, I ask unanimous consent that we proceed to a period for

morning business, under the previous order——

Mr. HARKIN. If I may ask the leader to yield, I have been here all morning. I thought there was no controversy on the sense-of-the-Senate resolution that the Senate and the Congress and the President act promptly to address these inequities on the Medicare repayment, of which the Senator from Idaho has been a very strong proponent for a long time. I thought we were going to have a vote on it. I don't understand why we are not voting on this today.

Mr. REID. As I indicated, we had a sign-off from Senator BAUCUS, chairman of the Finance Committee. I thought we had a sign-off from the ranking member, but that didn't happen. It is my understanding that the Senator from Iowa and his staff are looking into the amendment now. They have had the opportunity for a long time now, and they haven't given us a sign-off. Therefore, because of the ranking member of the committee, Senator GRASSLEY, not giving consent to move forward, Senator BURNS has not allowed us to go forward.

Mr. HARKIN. It is my understanding that the Finance Committee people had this for some time and look at it.

Mr. REID. I don't know about that.

Mr. HARKIN. I thank the assistant majority leader. I hope we can vote on this next week sometime.

● Mr. GRASSLEY. The Assistant Democratic leader and my colleague Senator HARKIN of Iowa have claimed that I withheld my consent to moving to a vote on a Sense of the Senate Resolution directing Congress to promptly address inequities in Medicare payments across states.

The author of the Sense of the Senate resolution, Senator HARKIN, has said ''it was my understanding the Finance Committee people had [his amendment] for some time and had looked at it.''

This was not the case, because I was not given the courtesy of knowing about or even seeing the resolution in advance. No one talked to me about it at all. In fact, my staff and I did not learn of the resolution until we saw it raised on the Senate floor. By the time my staff had the resolution in their hands, the Senate had moved on to other business, claiming that I was withholding my consent.

I believe the resolution, and all legislation to improve Medicare fairness in rural areas, deserves our attention and support. And I intend to support the resolution when we vote on it next week.●

Mr. CONRAD. Mr. President, I offer for the record the Budget Committee's official scoring of S. 2708, the Interior and Related Agencies Appropriations Act for Fiscal Year 2003.

The committee-reported bill provides $81.936 billion in nonemergency discretionary budget authority including an advance appropriation into 2003 of $36 million, which will result in new outlays in 2003 of $11.901 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for the Senate bill total $18.330 billion in 2003. Of that total, $1.442 billion in budget authority and $1.075 billion in outlays are classified as conservation category spending.

In addition, the committee-reported bill provides new emergency spending authority of $400 million for wildland fire management, which will result in outlays of $400 million. In accordance with standard budget practice, the emergency spending is not counted against the appropriations committee's allocation until after conference.

Mr. President, the Appropriations Committee voted 29–0 on June 27 to adopt a set of non-binding sub-allocations for its 13 subcommittees totaling $768.1 billion in budget authority and $793.1 billion in outlays. While the committee's subcommittee allocations are consistent with both the amendment supported by 59 Senators on June 20 and with the President's request for total discretionary budget authority for fiscal year 2003, they are not enforceable under either Senate budget rules or the Balanced Budget and Emergency Deficit Control Act. While I applaud the committee for adopting its own set of sub-allocations, I once again urge the Senate to take up and pass the bipartisan resolution, which would make the committee's sub-allocations enforceable under Senate rules and provide for other important budgetary disciplines. With the new fiscal year starting in 26 days, it is important that we act now.

For the Interior Subcommittee, the full committee allocated $18.926 billion in budget authority and $18.804 billion in total outlays for 2003. The bill reported by the full committee on June 27 is above its sub-allocation for budget authority by $10 million and is below its sub-allocation for outlays by $280 million. An amendment by Chairman BYRD, however, at the outset of the bill's consideration lowered the bill's total budget authority by $10 million, making it consistent with its sub-allocation. In any event, the appropriations committee's sub-allocations are not enforceable under Senate rules; thus, a point of order did not lie against the bill for exceeding its sub-allocation as reported. However, by including emergency funding for wildland fire management, the committee-reported bill does violate section 205 of H. Con. Res. 290, the concurrent resolution on the Budget for Fiscal Year 2001, by designating non-defense spending as an emergency.

Mr. President, I ask for unanimous consent that a table displaying the budget committee scoring of this bill be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2708, INTERIOR AND RELATED AGENCIES, 2003

[Spending comparisions—Senate Reported Bill (in millions of dollars)]

	General purpose	Conservation	Mandatory	Total
Senate-reported bill:				
Budget Authority	17,494	1,442	64	19,000
Outlays	17,255	1,075	77	18,407
Senate committee allocation: [1]				
Budget Authority	18,926	0	64	18,990
Outlays	18,610	0	77	18,687
House-passed:				
Budget Authority	18,292	1,438	64	19,794
Outlays	17,800	1,052	77	18,929
President's request: [2]				
Budget Authority	17,632	1,321	64	19,017
Outlays	17,524	971	77	18,572
SENATE-REPORTED BILL COMPARED TO:				
Senate committee allocation: [3]				
Budget Authority	10	0	0	10
Outlays	−280	0	0	−280
House-passed:				
Budget Authority	−798	4	0	−794
Outlays	−545	23	0	−522
President's request:				
Budget Authority	−138	121	0	−17
Outlays	−269	104	0	−165

[1] The Senate has not adopted a 302(a) allocation for the Appropriations Committee. The committee has set non-enforceable sub-allocations for its 13 subcommittees. This table compares the committee-reported bill with the committee's sub-allocation to the Interior Subcommittee for informational purposes only.

[2] The President requested total discretionary budget authority for 2003 of $768.1 billion, including a proposal to change how the budget records the accrual cost of future pension and health retiree benefits earned by current federal employees. Because the Congress has not acted on that proposal, for comparability, the numbers in this table exclude the effects of the President's accrual proposal.

[3] The Appropriations Committee did not provide a separate allocation for general purpose and conservation category spending. This table combines the general purpose and conservation category together for purposes of comparing them to the Interior Subcommittee's sub-allocation.

Notes: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions, including removal of emergency funding ($400 million in budget authority and $400 million in outlays) and inclusion of 2003 advance appropriation of $36 million (budget authority and outlays). By tradition, emergency spending is not counted against the Appropriations Committee's allocation until after conference.

Prepared by SBC Majority Staff, 9–5–02.

Mr. DORGAN. Mr. President, I rise to support an important program funded in the fiscal year 2003 Interior Appropriation measure. The Advanced Microturbine Program is a Department of Energy effort to support and develop clean and efficient power technologies for the 21st century. The program's goals are to improve energy efficiency, reduce environmental emissions and expand fuel choices for the next generation of microturbines.

As I mentioned in the past, we must produce more energy, but we also must conserve more energy. Conservation of energy is simply another way of producing energy. Energy efficiency is also integral to any energy plan. Electrical systems can and should be made more efficient. Finally, we must utilize renewable energies. Employing fuels such as ethanol and using them to extend our energy supply makes good sense.

The Advanced Microturbine Program goes a long ways towards those ends. The ultimate aim of the program is to produce ultra clean, highly efficient microturbine product designs by 2006 that are ready for commercialization. The machines will utilize several fuel options, including landfill gas, industrial off-gases, ethanol, and other biobased liquids and gases.

The Advanced Microturbine Program is a good example of how partnerships with industry, including one from my home State, and government can deliver advanced technologies and practices to assist in meeting challenging

goals in the areas of renewable resource development and environmental protection. For this efficient technology to reach its full potential, I am told that the Advanced Microturbine Program should be funded at $14 million for fiscal year 2003. At the minimum, I encourage my colleagues to recede to the higher House level of $12 million as we move this bill to conference.

Mr. LEVIN. Mr. President, I would like to express my support for an amendment that has been introduced by our distinguished majority leader. This amendment, which has taken a variety of forms in the past several months, was originally proposed as a bill by Senator BAUCUS. I cosponsored this bill previously and support it now as it provides much needed assistance to our Nation's farmers who have suffered significant crop losses during the past 2 crop years. Farmers throughout the Nation have suffered great losses, and farmers in my home State of Michigan have been among those who have suffered most.

Two years of statewide crop failure have threatened the viability of Michigan's farmers, and this amendment strives to address the losses suffered by growers in the 2001 and 2002 growing years. Over the past 2 years, some farmers faced early warm temperatures followed by freezing conditions. For others, torrential rains came early in the growing season and were followed by long droughts for some farmers. Still other farmers faced drought conditions at the start of the crop year and heavy rains at harvest time.

This year, USDA Secretary Ann Veneman recognized the atypical weather conditions that greatly diminished crop production in Michigan by designating 50 Michigan counties as disaster areas. If that was not bad enough, Secretary Veneman designated that 82 of Michigan's 83 counties as official disaster areas last year.

Michigan is one of the Nation's most diverse states in terms of the sheer breadth and number of crops grown in it, and growers of many crops have been affected by adverse weather conditions.

This year, cherry farmers in Michigan lost upwards of 95 percent of their crops—a level that threatens to devastate Michigan and the Nation's cherry industry, given that Michigan produces over 70 percent of the tart cherries in the nation. Earlier this year, I had the opportunity to visit with cherry growers in Michigan and listen to them as they told me how this year's crop losses were the worst that the industry had ever suffered since crop records have been kept. Additionally, all apple growers in Michigan have had at least 20 percent of their crops damaged this, and 80 percent of all Michigan apple farmers have lost upwards of 40 percent of their crop this year.

Last year, farmers in just one area of Michigan, which is one of the leading dry bean producing regions in the Nation, lost 85 percent of their bean crop. Across the state, in the southwest corner of Michigan, labrusca grape growers lost 80 percent of their crop, and they suffered similar losses this year. While the losses suffered by bean and grape growers are particularly severe, they are not the only crops to have suffered drastic losses.

Approximately 25 percent of apple growers in Michigan and across the Nation are in danger of going out of business in the next 2 years, and in Michigan that means that our cherry, peach and asparagus crops, which are often grown on the same orchards as apples, will be greatly decreased. Orchard communities around the country have been devastated. As farmers have left the business, small businesses and cooperatives that have been around for generations have also gone out of business, and local governments have lost significant tax revenue. This assistance will allow many growers to reduce debt and get private bank or USDA loans for the next growing season. This assistance for will give farmers the shot in the arm they need to recover from several years of low prices.

Our Nation's farmers have not shared in the prosperity which many Americans have experienced over the past decade. No one, least of all America's farmers, likes the fact that annual emergency agriculture supplementals have seemingly become routine.

Yet we must provide this assistance if we are to address the problems facing farmers throughout the Nation. Several growers have told me that the crops losses they suffered this year were so severe that without emergency assistance they will most likely lose their farms. This assistance is not the answer to the problems facing our farmers and rural America, but it is an important part of an effort to keep families on their farms. I thank the Senator for South Dakota and the Senator from Montana for their efforts in drafting, supporting and offering this amendment.

HAY AND FESCUE CROPS

Mrs. CARNAHAN. Mr. President, I wish to enter a short colloquy with my good friend, the Senator from Montana, one of the chief authors of this amendment, and ask him if losses to hay and fescue crops due to armyworm infestation qualify for assistance under amendment 4481 to the Interior Appropriations Act.

As the distinguished Senator might know, farmers of forage crops in southern Missouri, and across the country, were devastated by a recent armyworm infestation. The Secretary of Agriculture declared sixty-two Missouri counties as natural disaster areas due to damage caused by severe armyworm infestation. Last year Senator LEAHY and I introduced legislation, S. 1354, to provide emergency relief for these farmers.

Mr. BAUCUS. In response to my distinguished colleague, we have consulted with the Department of Agriculture and these crop losses would indeed qualify for assistance under this amendment.

I know that the armyworm infestations have caused massive damage to crops throughout the Midwest and Northeast and I am pleased that this legislation will provide some assistance to these farmers.

Mrs. CARNAHAN. I thank the Chairman of the Finance Committee for his assurances that this important legislation will provide much needed relief to so many farmers and farm communities in Missouri.

MORNING BUSINESS

Mr. REID. Madam President, under the order that was to be in effect following the termination of the debate on the Interior bill, I ask unanimous consent that the time for morning business begin now and go for an hour. I ask that, rather than be controlled by any particular party, those wishing to speak be allowed to speak for up to 5 minutes each and that the Senator from California be first recognized.

The PRESIDING OFFICER. Is there objection?

Mr. REID. How long does the Senator from California wish to speak?

Mrs. FEINSTEIN. I was hoping 20 minutes.

Mr. REID. I ask that the first person to be recognized be the Senator from California for up to 20 minutes and that in the time thereafter, whoever wishes to speak may come to speak. We are not trying to cut out the minority from exercising their ability to speak in morning business. I am not sure anybody wishes to speak now because it is lunchtime, but everybody will have the opportunity.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from California is recognized.

MORE QUESTIONS THAN ANSWERS ON IRAQ

Mrs. FEINSTEIN. Madam President, I rise today to express my growing concern that we may shortly be faced with a decision to unilaterally invade another nation-state, and that is the State of Iraq. This concern has been heightened by the news of today's assassination attempt of Afghan President Hamid Karzai in Kandahar. Earlier on, a car bomb exploded in central Kabul, killing at least 22 people.

This event, in my view, underscores the point that our primary focus must remain on our immediate war on terrorism being waged in troubled Afghanistan, where our soldiers are on the front line. As a matter of fact, preliminary reports indicate it was Americans who took down the attempted assassins.

While I welcome President Bush's recent statement indicating he will seek congressional approval of such a use of

force, I believe any action in Iraq at this time, without allied support, without United Nations support, and without a compelling case for just cause, would be both morally wrong and politically mistaken.

I just returned from a trip to Europe. As part of my role as chairman of the Appropriations Subcommittee on Military Construction, I toured U.S. military bases and met with a variety of individuals. They included members of the intelligence community, the military, and the International Atomic Energy Agency.

I was shocked at how dramatically perceptions in Europe have shifted since September 11 toward our country. All of the sympathy and concern we received in the wake of the terrorist attacks has apparently vanished, replaced by the sense that the United States is becoming an arrogant and aggressive power, a nation that simply gives orders, a nation that neither listens nor hears.

When I was in Europe, much attention was given to the absence of Presidential participation at the Summit on Sustainable Development in Johannesburg. And this, on top of our rejection of the Kyoto treaty, our casting of aspersions on international accords such as the International Criminal Court, the Anti-Ballistic Missile and Landmine treaties, has led to a growing belief, right or wrong, that the United States is using its power in an increasingly unilateral and somewhat arrogant manner.

Above all, there is our approach to Iraq and our perceived readiness to invade that nation unilaterally.

I believe we have to ask many critical questions, most of which are unanswered.

Questions about the ongoing war on terrorism. How do we stay the course, root out terrorism and, at the same time, initiate war with a nation-state which, to this day, remains unconnected to 9/11.

Questions about the extent of Saddam Hussein's weapons of mass destruction and about who will get to them first.

Questions about going it alone in Iraq.

Questions about casualties and cost.

Questions about collateral human damage—civilians killed in the short term and in the long run.

Questions about the future of Iraq, about whether we can honestly expect a democracy to be created out of a nation consumed by tribal factionalism.

And questions about what the long-term impact might be on the Arab world, on the Middle East. What if Iraq attacks Israel? What will we do, and what will the world do?

Present United States policy toward Iraq stands in stark contrast to how we conducted Operation Desert Storm just over a decade ago. Then, the first Bush administration spent several months building a broad-based coalition that included 30 nations, including many in the Islamic world. It sought and received resolutions supporting the use of force against Iraq from the United States Congress and the United Nations Security Council, and American and international public opinion stood firmly behind such action. Today, no nation is firmly allied with the United States on this issue.

At the very least, I believe we should launch a major diplomatic effort with the United Nations, our allies, and our Arab friends, with the goal of delivering an ultimatum to Saddam Hussein: Either open up or go down.

If he does not comply with this demand, it will give the United States added moral and diplomatic strength to any future effort. It will help unite the world community behind us.

Additionally, I am very concerned that the United States stay the course on our war against terrorism. To date, there is no direct connection between Saddam Hussein's Iraq and the 9/11 attacks that has been substantiated.

This means staying the course in our war against terrorism, part of which exists in Afghanistan. The government of Hamid Karzai is fragile at best. Today should show that. During its first 6 months in power, two Cabinet officials have been assassinated. Today, President Karzai himself barely escaped an assassination attempt, and a major act of terrorism has killed many in central Kabul. The Karzai government must have security and stability, or it will perish and so will democracy.

Additionally, we know the Taliban and al-Qaida lurk in the remote mountains, waiting for an opportune moment to come back. If Afghanistan cannot be stabilized, if its streets and homes cannot be made secure, and if its first democratic government cannot survive, this will be a very serious setback.

Afghanistan is our beachhead in the war on terror. We cannot lose it, or we lose the war on terror. We must put al-Qaeda, Hamas, Hezbollah, and a host of other terrorist groups out of business before they can strike out again at America and our interests.

That is why concentrating on this war—the critical war against terrorism—is so important.

An attack on Iraq at this time would only deflect from this war, by diverting attention and forces away from bringing to justice the perpetrators of 9/11. Can we afford to do this?

If there is an imminent threat to the United States or to our interests, then we must act. At this moment, however, I do not believe such a threat exists. No one doubts that Iraq has chemical or biological weapons and the means to deliver them. They have used them on at least three occasions, but they have not used them in the last 10 years, and I believe they know what will happen if they do use them.

What is less clear, however, is the status of Iraq's nuclear weapons capability. In 1981, Israel destroyed the Osiraq reactor provided by France. While Iraq continues to seek to develop nuclear capability, there is no evidence I have found that Iraq is nuclear capable today. So there is no imminent threat.

Secretary Rumsfeld has claimed that if we wait for Iraq to develop nuclear weapons, then it will be too late. He is right. The key is to find a way to stop Iraqi nuclear ambition, and stop it now, which is why opening Iraq's borders to a search and destroy mission for weapons of mass destruction, conducted by our allies, our friends in the Arab world, and the United Nations, is critical.

I believe this requires renewed diplomatic efforts on our part, with the United Nations, with our allies, and with friendly Arab nations. We must stop Iraq from becoming nuclear capable. And the world in turn must respond. Otherwise, an attack becomes the only alternative.

As Gen. Wesley Clark recently stated:

> In the war on terrorism, alliances are not an obstacle to victory. They're the key to it.

By acting unilaterally, the United States not only runs the risk of isolating these long-standing allies, but also of solidifying the entire Arab world sharply against us. This may not result in any direct or traditional military response against the United States, but what about a personal jihad throughout this country—a jihad of bombs and other terrorist acts carried out throughout the world?

There are people out there eminently capable and able to finance doing just that.

With the Israeli-Palestinian conflict not yet under control, a United States attack on Iraq would certainly fuel the fire of Islamic fanaticism, uniting the Arab world against the West and Israel. The consequences could be unprecedented and beyond our present comprehension.

The Israeli-Palestinian situation should be our highest priority. This conflict must be resolved. The United States must use its influence and leadership here, with the Israelis, the Palestinians, and the surrounding Arab world. Here, too, we must stay the course.

At the same time, there is some troubling evidence today of the preparation of a second front in southern Lebanon to attack Israel in the event we attack Iraq. Ambassador Dennis Ross recently told me of thousands—he mentioned 10,000—extended-range Katyusha rockets that have been moved through Syria from Iran and into southern Lebanon, for an attack on Israel. He said they had been extended so that they could hit at the major Israeli industrial zone north of Haifa. I believe this has been confirmed.

In the face of all of this, assume we do attack Iraq. Consider that we mobilize 250,000 to 300,000 soldiers, our aircraft carriers, our B–52s, our 117s. This will not be another Desert Storm

where exposed Iraqi troops are routed in the open desert, overwhelmed by American airpower.

This war will be waged in Baghdad, in Tikrit, and in other cities. It will be waged from house to house and palace to palace, from street to street and school to school and hospital to hospital.

We will certainly kill many Iraqis, and how many of our own will be killed? And will we stay the course once the body bags start coming back to Dover? Will Americans stand up and say, ''More''? I think not.

Then there are the thousands of innocent Iraqi civilians civilians already brutalized by the last 12 years—who will become casualties in this war.

America has never been an aggressor nation unless attacked, as we were at Pearl Harbor and on September 11, or our interests and our allies were attacked. We have never initiated a major invasion against another nation-state, which leads to the question of whether a preemptive war is the morally right, legally right, or the politically right way for the United States to proceed.

Lastly, there is the immensely complicated question of the Iraqi nation Saddam Hussein now has and what will happen if he is overthrown. Have we really thought out our options here? Have we taken into account the deep tribal factionalism and divisions, the bitter and often bloody rivalries among the Shia majority, the ruling Sunni minority, and the Kurds, that lie at the very root of Iraq? Will we protect the Kurds from possible genocide? How long will we stay to secure a new government? And who would replace Saddam Hussein?

Let's be realistic. A democracy is not likely to emerge. One must look closely at the history of Iraq to draw such a conclusion, and I have.

Madam President, I would like to quote from the recently published book, ''The Reckoning: Iraq and the Legacy of Saddam Hussein'' by Sandra Mackey. She writes:

When [Saddam Hussein] finally loses his grip on power either politically or physically, he will leave Iraq much as it was when the British created it—torn by tribalism and uncertain in its identity. It is this Iraq that threatens to inflict its communal grievances, its decades of non-cooperation, and its festering suspicions and entrenched hatreds on the Persian Gulf, the lifeline of our global economy.

In light of such conditions, is the United States ready to be an occupational force? It could take many years for the seeds of a stable pluralist society to flourish in Iraq. Are we really ready to spend a generation there?

Given what is at stake here—American lives, American prestige, and America's respect for the rule of law—we find ourselves at a critical crossroad.

Again, according to Sandra Mackey:

. . . the time is fast approaching when the United States, for a series of perilous reasons, will be forced to look beyond Hussein to Iraq itself. That is when all Americans will pay the price for what has been a long night of ignorance about the land between the rivers.

In closing, I am very happy to see that President Bush will now seek congressional approval regarding military action. So this debate has just begun.

I look forward to working with my colleagues in the Congress to ensure we not only ask the questions but see that the answers are moral, see that they are legal, see that they are befitting the greatest democracy on Earth, and see whether they are worth, for the first time, the United States of America making a unilateral attack on another nation-state.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. EDWARDS.) The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. CARNAHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF HOMELAND SECURITY

Mrs. CARNAHAN. Mr. President, the attacks of September 11 changed us as individuals and as a nation. They changed the way we think about our personal security, and they challenged our assumptions about the threats posed by groups and organizations hostile to our values and our way of life.

The events of the past year have also bolstered our resolve. We have come a long way since that terrible day, but much more needs to be done. We have toppled the Taliban and severely disrupted the al-Qaida network, but our military is still working around the clock to destroy al-Qaida elements around the world.

We have dramatically improved security at our airports, but we have much to do to protect our aviation system, our ports, and our borders. We have spent billions to recover from the attacks, but unfortunately we must spend more to protect our homeland from threats ranging from bioterrorism to dirty bombs.

Today, we are focused on reorganizing our Federal Government to meet these new security challenges. I believe creating a new Federal Department of Homeland Security is the right thing to do. We need one agency whose exclusive focus is controlling our borders and protecting our homeland. That is why I support the bill before the Senate.

I commend Senator LIEBERMAN for the leadership and tenacity he has shown in getting us to this point. We began hearings last year on this proposal, and now we have brought the Senate a well-designed, comprehensive bill, approved on a bipartisan basis by the Governmental Affairs Committee. I was proud to vote for that bill.

I also commend President Bush for his decision to support the creation of a Homeland Security Department.

I believe now is the time for Congress and the President to work together to create a strong, effective, and well-equipped department—a robust department. The American people rightly demand that the first duty of the Federal Government is to provide security. So we need to make sure we give the new Department the structure and the tools it needs to do the job.

The committee-approved homeland security bill creates an agency that will improve coordination, cooperation, and communication among all the Government organizations that will work at this new effort. It will bring together information and expertise from Federal, State, and local government and the private sector. Such efforts are key to preventing and containing further attacks.

Our States are on the front line of this battle. Missouri recognized this and was the first State to hire a homeland security director. In recognition of the strong bonds needed between Federal, State, and local government, the committee bill includes an office of State and local government Coordination. This office will assure that the Federal Government reaches out to the State and local levels with training, tools, and a coordinated strategy.

It will take more than this bill to prepare communities to respond to an attack, however. There must be the resources to do the job. I am already concerned because Federal funding for homeland security still has not made its way to the local level in Missouri. In the aftermath of 9/11, the staffing needs of many fire departments have increased dramatically across our Nation. Two-thirds of all fire departments, large and small, operate with inadequate staff. The International Association of Fire Chiefs estimates that 75,000 additional firefighters are needed to meet minimal acceptable levels for safety and effective response.

I offered an amendment with Senator COLLINS that will begin to address this. It will establish a program to enable local fire departments in Missouri and across the country to hire 10,000 new firefighters. I am pleased the amendment passed unanimously in committee. This amendment is an effort to strengthen the ranks of those who protect us and did so on September 11, and who risk their lives daily to keep our communities safe.

I urge my colleagues to support this provision when the Senate bill is conferenced with the House bill. We not only need to make sure our first responders have sufficient resources, but we will need to make sure they have adequate training. I sponsored an amendment in committee that requires the new Department to coordinate with the Secretary of Defense for training on how to respond to chemical and biological attacks. This is a logical step because the Defense Department is the

primary Government agency supporting the training of military and nonmilitary personnel to respond to chemical and biological attacks.

Just last January, the Coast Guard sent 30 national strike force members to the Army's chemical school in Fort Leonard Wood, MO. They learned how to spot nerve agents, scan people for radiation, and respond in other ways to terrorist attacks. From their DOD schooling, some went straight to the Olympic Games in Salt Lake City for duty.

My amendment, which the committee also accepted unanimously, makes sure that the new Department of Homeland Security has access to the Defense Department's expertise.

We will consider a number of amendments in the coming days and hopefully have a thorough debate. But let's not lose sight of the fact we have a very solid proposal before the Senate. It implements the President's call for the creation of a strong, robust Department of Homeland Security. It does so in a careful and constructive way. In the end, it will preserve, protect, and defend the United States of America.

The PRESIDING OFFICER. The Senator from Arizona.

JUDGE PRISCILLA OWEN

Mr. KYL. Mr. President, I regret to say this day is a very dark day in the history of the Senate. The Senate Judiciary Committee, of which I am a member, has just rejected, on a purely partisan party line vote, the nomination of one of President Bush's finest nominees to the U.S. Circuit Court, Justice Priscilla to the Fifth Circuit Court of Appeals.

First, there was a vote to reject her 10 to 9. Then, Senator HATCH asked she be reported to the full Senate without recommendation so that all of our colleagues could have an opportunity to cast their vote on her nomination. That was rejected 10 to 9. Finally, he said, all right, then, I will move that we report her out unfavorably since the majority of the committee, 10 to 9, does not support her confirmation. That, too, was rejected on a party-line vote.

The full body of the Senate will not have an opportunity to vote on the confirmation of Justice Priscilla Owen.

The reason this is so distressing today is because it marks a new era in the judicial confirmation process. That much was made clear by the Democratic members of the committee today. It is clear now that there is a new test to be applied to the President's nominees. It is no longer enough that the nominee be well qualified and above reproach in terms of judicial ethics. It is now necessary that the candidate be committed to actively pursuing the political agenda of the majority of the members of the committee. If not, they will characterize the nominee as ''extremist,'' as ''right wing,'' as Justice Owen was characterized today.

Now, some time ago the chairman of the committee said the American Bar Association, which had historically rated the qualifications of nominees, was 6really the gold standard because they were very careful in how they considered the qualifications of nominees and their recommendations were not made lightly. The highest recommendation that the American Bar Association can give to a nominee is ''well qualified.'' Justice Owen received the recommendation of ''well qualified'' not by a majority of the members of the ABA who decide these matters, but unanimously. Every single person involved in the ABA who rated the nominee, rated her well qualified. In other words, she could not have gotten a higher rating from the American Bar Association.

As I said, the chairman of the committee characterized this process as the gold standard for nominees. I said today that I guess the Senate has now gone off the gold standard; that is no longer enough.

The Senator from New York was quite candid in articulating again, as he has on numerous occasions, what he believes the new standard should be. And central to the application of the new standard is a determination by the members of the committee of the purported ideology, political ideology, of the nominee with the right to determine whether the nominee is within the mainstream, as they identify it, and then the right to vote down any nominee considered to be outside the mainstream.

Never mind that our great and distinguished colleagues, such as Senator KENNEDY of Massachusetts, Senator SCHUMER of New York, Senator LEAHY of Vermont, in my opinion, are not necessarily the most qualified to describe what is mainstream in American politics—as least not as qualified as a person who has been elected by all of the people of the country, the President of the United States. Apart from the fact that I think President Bush probably has a better handle on what is mainstream in the country than my colleagues on the committee, myself included, the rejection of the previous standard and the insertion of this new political standard into the Judiciary Committee deliberations is a breach of tradition, highly dangerous to the continuation of the rule of law in the United States, and itself an exercise in blatant, political activity.

When the Senator from New York suggested this new standard, he held a hearing. Among the people who testified were Lloyd Cutler, counselor to several Democratic Presidents. Lloyd Cutler is a man of great distinction in the bar with a long history of activity in the judicial nomination process. He said it would be a grave mistake to insert politics into the nonpolitical branch of Government, the third branch, the judicial branch. He said if an ideological litmus test ever became the Senate's reason for confirming or rejecting a nominee, that it would have injected politics into the third branch, and the citizenry could then well conclude that the third branch of Government was merely an extension of the other two, subject to political decision making, and that the public could then rightly lose faith; that the designates of the third branch of Government would be devoid of political influence, that they would be fair and honest. And I would just add in my own words that it would be pretty hard to believe anymore that when you went into a court and you expected to receive blind justice, as we are all accustomed to, that you might well be faced with the decision of a political judge who would not base the case on the law or the Constitution, but rather on political ideology.

That is wrong. It is dangerous. It is unprecedented. That is why I say this was a black mark in the history of the Senate because today we had a committee that made a decision that I can only characterize as applying a political litmus test to the nominee—and a faulty one at that.

If my colleagues can characterize Justice Priscilla Owen as a right-wing extremist, an ideologue, an activist judge—as they did—then anyone can be so characterized. Senator GRAMM made the point a few minutes ago. He said: I know a political ideologue when I see one because I am. Most of us in the Senate, in fact, are political ideologues in the finest sense of that word. We believe in a political ideology and we care enough, no matter what other occupation we might have had, to try to advance our political philosophy in the U.S. Senate on behalf of our constituents. That is in the great tradition of the United States and applied to the second branch of Government, the legislative branch.

But it has never been appropriate to apply that to the third branch of Government, our judges. As I said, if Priscilla Owen can be so characterized, then anyone can be. She is about as far from being an ideologue or an extremist or an activist as anybody I have ever seen nominated to the court.

A bit about her: She has earned the support of Texas Democrats and Republicans. She has been three times elected to the Texas Supreme Court. She had the endorsement of every major Texas paper in her last race. She is not a partisan.

She is brilliant. She had the highest score on the Texas bar exam when she took it. As I said, the American Bar Association rated her unanimously with their highest rating of ''well qualified.''

Everything that was said about her in the committee deliberations this morning was considered by the bar association in making that recommendation. I suggest the charges that those outside the Senate have made are trumped up charges that bear no resemblance to the truth.

In characterizing her as somehow outside the mainstream, these groups

have done a great disservice, not just to the President and to the court system and the rule of law, but to this fine individual, personally. That is, perhaps, the biggest tragedy of all.

The Washington Post, which is not known to be, by conservatives anyway, a friendly newspaper to the President or to conservatives or to the conservative philosophy, in an editorial on July 24, made clear its view that it would be inappropriate to reject Justice Owen; that she was highly qualified and that her conservative views, if indeed she had them, would not be a reason for her to be disqualified and rejected. The Post characterized her as a conservative in the editorial, concluding:

> In Justice Owen's case, the long wait has produced no great surprise. She's still a conservative. And that is still not a good reason to vote her down.

I remember in the last few weeks of the campaign for the Presidency, Al Gore said one thing I agreed with. He said: You should not vote for President Bush because if he's elected President then he'll nominate conservatives to the court.

It is no great surprise that a President would nominate people to the courts who think like the President does. That is traditional in this country and Al Gore was right.

If you elected him, you are more likely to get people who are more liberal. If you elected President Bush you are more likely to get people who are more conservative. That is our system and that has never been a basis for the Senate to substitute its political judgment for that of the President—who after all, again, was elected by all of the people in the country—and vote the nominee down based on ideology.

Instead, it has always been the tradition to determine whether the candidate was well qualified, had the right ethics and judicial temperament, and was otherwise qualified. If so, then the candidate was confirmed.

As a member of the committee and as a Member of this body, I have voted on a lot of nominees with whom I did not agree politically. There are members of the Ninth Circuit Court of Appeals sitting now who have voted wrong in every controversial case, as far as I am concerned. But I voted for them. I voted to confirm them because I believed that President Clinton, having been elected by all of the people of the country, deserved his nominees. I couldn't argue with the qualifications or ethics of the people for whom I voted. These, too, were rated highly by the American Bar Association. They, too, were smart people who had good judicial ethics. So I voted for them, knowing that probably they would come down on the wrong side of decisions that mattered to me in certain situations. And that has been the case. But I do not regret voting for them because that has been the tradition for over 200 years in this country.

Senator after Senator on the floor of the Senate has made that point: I don't necessarily like this candidate's views, but I am going to support the candidate because of the tradition of the Senate to give the President's nominees the benefit of the doubt.

The new ideology in the Senate, according to the majority members of the committee, is that the burden of proof is now on the nominee; that unless the nominee can demonstrate to the members of the committee the nominee's willingness to abide by this test that has been established, that the committee has the right to turn these nominees down. The burden of proof has heretofore been on the committee members to find a reason to reject the nominee if, in fact, there was one.

To be candid, Members of the Senate have sometimes gone looking for reasons to oppose a nominee when they believed that the ideology was too far one way or the other. Sometimes they found those reasons and sometimes they did not. But up to now, anyway, unless you could find a darned good reason to oppose a nominee, you didn't do so.

Now that has changed. That is why I said this is a very dark day in the Senate. If this persists, we are going to get to the point where we have judges sitting who were confirmed based upon political ideology so the citizens of the country are no longer going to be able to go into court and be satisfied regarding the one person who will rule on their fate, on their property, and in some cases even their lives—that the individual litigant can no longer count on the decisions made to be fair and in accordance with the law and the Constitution of the United States.

I know of very few countries in the world where a citizen is willing to volunteer and go into court and say: I believe I am absolutely right, but I am willing to let a judge, somebody I have never met before, who I do not know, make a decision that could dramatically affect my life because I believe in the rule of law as applied in the United States of America, in fairness and in the application of the rule of law in the U.S. Constitution. There are not very many places in the world where you feel good about going into a court and literally placing your life in the hands of someone you don't know.

But we trust those people in the United States because of the tradition that has enabled us to appoint people to the bench who, by and large, rule on the basis of their view of the law and of the Constitution rather than on a political ideology. But if this persists, you are not going to know when you go before the judge whether this was a judge who was chosen because of ideology and, if so, how that might be applied in your particular case. That is a very bad thing. It begins to undermine the rule of law in this country. That is why people, such as Lloyd Cutler and others, were very wary of a change in the practice of confirming judges this way.

I think it is interesting that liberals in this country were always very concerned about President Reagan and the first President Bush applying a litmus test to nominees. They both made it clear that they applied no such litmus test. The litmus test that was of most concern related to the issue of abortion. It is clear, from at least some of the nominees President Bush appointed, that he did not have a litmus test in mind because those judges have not agreed with the Reagan-Bush kind of political philosophy. But I think it is appropriate that there be no litmus test on abortion or any other issue.

When I recommended a judicial nominee to the President—either to President Clinton or to President Bush—I did so on the basis that I could easily say I never asked this candidate about his or her position on an issue such as abortion. In fact, to this day I don't know those candidates' positions, by and large, on that particular issue. But it appears to me now the litmus test is being applied, and specifically on the issue of abortion, if you listened to the members of the committee who discussed Justice Owen's nomination today.

It is interesting that the Judiciary Committee, in response to the concern about a President applying a litmus test, has a question that has always been put to the nominees before it. We have a list of questions. But one of the key questions is: Has anybody at the White House or in the Government asked you about your position on any issues that might come before the court? If so, specify who, when, and so on. Because the members of the Judiciary Committee wanted to know if anybody in the executive branch queried them about their political views on issues that might come before the court. And, of course, if anybody had done so, the committee would have risen as one and said: That is improper; you are applying a litmus test, and you can't do that.

Some of the witnesses who came before the committee when we had the hearings on this alluded to that questionnaire. And we said: You can't substitute the traditional advice for confirmation with a political litmus kind of test and only apply it in the legislative branch.

If the members of the Judiciary Committee are going to begin applying a litmus test—if we are going to begin making our decision on ideology—then you can expect the President of the United States is going to do the same thing, continuing down that road.

I think there is an element of hypocrisy because that question still exists. It is still asked by the members of the Judiciary Committee. But we say the President dare not ask it.

I think we have to get our thinking straight. Are we going to allow decisions such as the one that was made today by the majority of the Judiciary Committee to become the prevailing view in the Senate and the traditional practice and test of the Judiciary Committee of the Senate or are we going to

take a big, deep breath and say: Wait a minute—whether it is a Republican or Democratic President and whether it is a Republican or Democratic Senate—this is taking us down a very wrong and dangerous path.

I believe that in the great tradition of partisan Members of this body, who nevertheless understood that politics was no way to make decisions on judges, good sense will ultimately prevail and the Senate will return to a standard that is appropriate—whether the candidate is well qualified based upon traditional temperament and ethics, and on their ability to apply the law fairly, and understanding and knowledge of the law.

If we don't return to that kind of a standard, then we are on an inevitable decline in the way that our country applies the rule of law; and, since the rule of law underpins everything in the United States—from our guaranteed constitutional rights to our economic free market system, our property rights, and all the rest—it would be the beginning of the end of this country.

I do not exaggerate when I say that nothing less is at stake and that this body needs to address this question very seriously before decisions such as today's become the rule rather than the aberrant exception.

I believe this is a dark day in the history of the Senate, that history will judge the actions of the committee today very harshly. I just hope my colleagues will consider whether in the future we need to return to the tradition that has served Presidents and the Senate and the Nation so well. I hope so.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I heard the last part of the remarks of the Senator from Arizona about what happened today in the Judiciary Committee to Supreme Court Justice Priscilla Owen, a member of the Texas Supreme Court, who was voted down on a straight party line vote. I have never seen a case in which a person who is totally qualified, a person who has shown integrity on the bench, and who has the academic credentials to be a great Federal judge would be turned down for, really, I think a litmus test on issues.

In the past administration—the Clinton administration—I voted for a number of judges with whom I disagreed philosophically, judges who I knew would rule differently from what I thought would be the ''right vote'' on the court. But I tried to see what their qualifications were. I certainly tried to see if they would be strict constructionists to the Constitution, if they would adhere to the law rather than be traditional judicial activists. I voted for people with whom I disagreed many times. Today, I don't think that could be said for members of the Judiciary Committee.

I am told there has never been a nominee who had the unanimous qualified recommendation from the American Bar Association and the support of both home State Senators who has been turned down for a traditional nomination.

I am sad today because I know Priscilla Owen. I know what a fine person she is. Not only did she graduate right at the top of her class in law school, but she had the No. 1 grade on the Texas bar exam when she took it. She has sterling credentials academically. She is very well regarded by the former Democratic attorney general. The chief justice of the Supreme Court of Texas was very supportive of her and came out publicly for her. The other Democratic member of the Supreme Court of Texas with whom she served came out strongly for her.

It is just stunning that someone who never had one smirch on her record of integrity, who was totally well qualified and unanimously certified by the American Bar Association, and who was reelected to the Texas Supreme Court by over 80 percent of the vote would be turned down by the Judiciary Committee. I think this is a sad day.

But I will say this: I talked to Justice Owen today. I said: You lost the battle today, but you could win the war because I am absolutely certain that President Bush will renominate her if there is Republican control of the Senate. If that happens, she will be confirmed, because she deserves to be confirmed.

It is very hard on a personal level to see someone as committed as Priscilla Owen—she is basically a nonpolitical individual. She did not even know when she was asked to submit her name for the Supreme Court of Texas if she had voted in the primary before. This judge is not political.

But George Bush—Governor of Texas at the time—appointed her. She then ran for election after her appointment and was endorsed by every newspaper in Texas and was just thought of by both Republicans and Democrats as the most qualified person who had been put forward for this particular seat on the bench on the Fifth Circuit.

It is a sad day, but I think this is not over.

I do believe that President Bush will reappoint her in the next Congress if the Republicans control the Senate and he believes that she will get a fair hearing. I believe she will win the vote of the Senate, and she will show what a great judge she can be because she will be sitting on the Fifth Circuit bench.

But this is a tough day for her. I think she did not deserve this treatment. I will say that in the parts of the hearing that she had that I saw, she was outstanding and did as good a job as anyone I have ever seen who was a nominee for the Federal bench. She did so well that she won the endorsement of the Washington Post, the Chicago Tribune, and the Wall Street Journal. She had accolades from newspapers across America.

She does not deserve to have the treatment that she got today. But we will have another day, and I believe Priscilla Owen will go down in the records as a great Federal judge, because I believe she will be one eventually.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, has the bill been reported this afternoon?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. REED). Morning business is closed.

HOMELAND SECURITY ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 5005, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes.

Pending:

Lieberman amendment No. 4471, in the nature of a substitute.

Wellstone Amendment No. 4486 (to amendment No. 4471), to prohibit the Secretary of Homeland Security from contracting with any corporate expatriate.

Reid amendment No. 4490 (to amendment No. 4486), in the nature of a substitute.

Smith (N.H.) amendment No. 4491 (to amendment No. 4471), to amend title 49, United States Code, to improve flight and cabin security on passenger aircraft.

Reid (for Boxer/Smith (N.H.)) amendment No. 4492 (to amendment No. 4491), to amend title 49, United States Code, to improve flight and cabin security on passenger aircraft.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, it is my understanding that Senator WELLSTONE has a modification that will allow us to proceed and finish his amendment. Recognizing that as the case, people still wish to speak in relation to that amendment. I think that can be done after we take that action. So if Senator WELLSTONE is ready, I will ask that he be allowed to modify his amendment, and that will be accepted by voice vote.

Following that, the Senator from Texas will be recognized for 20 minutes to speak in relation to the legislation before the Senate; and the manager of the bill, Senator THOMPSON, wishes to speak, and I ask that he be recognized following the statement of the Senator from Texas.

Senator LIEBERMAN wishes to speak after Senator THOMPSON. At that time, we should be in a position to move forward on the Smith-Boxer amendment.

I ask unanimous consent that the Senate resume consideration of the Wellstone amendment; that Senator WELLSTONE then modify his amendment with changes that have been agreed upon; that Senator WELLSTONE have 20 minutes to speak with respect to his amendment; that upon the use or yielding back of time, the Reid second-degree amendment No. 4490, as modified, be agreed to, the motion to reconsider be laid upon the table; and that the Wellstone amendment 4486, as amended, be agreed to, the motion to reconsider be laid upon the table, without intervening action or debate, with the proviso that Senators be recognized as I indicated: Senators GRAMM, THOMPSON, LIEBERMAN. And at that time, we would be in an almost certain position to move forward on the Smith-Boxer amendment. There have been conversations taking place among people with regard to this.

Mrs. BOXER. Reserving the right to object, I apologize. I was called to the Cloakroom. It was my understanding that after Senator GRAMM speaks in morning business that we were going to go to the Smith-Boxer amendment.

Mr. REID. That was the case, but we have the two managers of the bill who wish to speak on the amendment.

Mrs. BOXER. On which amendment?

Mr. REID. On the Wellstone amendment.

Mrs. BOXER. May I ask, where are we in terms of time?

Mr. REID. Senator THOMPSON wants 10 minutes. We are talking about 40 minutes. We hope at that time we will have something that will dispose of this amendment on which Senator BOXER and Senator SMITH have worked. At that time, we will be in a position to determine what is going to happen thereafter. We have had conversations. Senator THOMPSON has an amendment he wishes to offer today or on Monday.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object one more second.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I want to make the point that Senator SMITH and I are anxious to move forward on our amendment. We are working with Senator FEINSTEIN on an amendment that she would like to offer by UC which, if it is in the spirit of what we discussed, would be fine with us. We do hope we can move forward.

Talk about homeland security, 9/11, planes being hijacked and pilots and flight attendants being essentially helpless—we want to change that. We are going to stay here and push hard to try to get a vote on that before the end of the day.

The PRESIDING OFFICER. Is there objection? The Senator from Tennessee.

Mr. THOMPSON. Reserving the right to object, as I understand it, Senator GRAMM will speak first. Then I will have the opportunity to speak and then Senator LIEBERMAN. Does the Senator from Minnesota want additional time?

Mr. REID. Under the agreement I just stated, he has 20 minutes if he wishes to use it.

Mr. THOMPSON. First? First meaning immediately, right now, before Senator GRAMM?

Mr. REID. After the vote. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Just so everyone understands—and I am sure they do—the Senator from Minnesota will send his modification to the desk. At that time, we will vote in relation to the Wellstone amendment. Following that, Senator WELLSTONE will speak. Then the lineup will be what was enunciated before, all in relation to the Wellstone amendment.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 4490, AS MODIFIED

Mr. WELLSTONE. Mr. President, I send a technical modification to the desk.

The PRESIDING OFFICER. Under the previous order, the modification is accepted.

The amendment (No. 4490), as modified, is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES.

(a) IN GENERAL.—The Secretary may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b), or any subsidiary of such entity.

(b) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) the entity has completed the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

(2) after the acquisition at least 50 percent of the stock (by vote or value) of the entity is held—

(A) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

(B) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

(3) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) RULES FOR APPLICATION OF SUBSECTION (b).—In applying subsection (b) for purposes of subsection (a), the following rules shall apply:

(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (b)(2)—

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

(ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1).

(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (b) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as 1 partnership.

(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

(ii) to treat stock as not stock.

(2) EXPANDED AFFILIATED GROUP.—The term ''expanded affiliated group'' means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504(a) of such Code shall be applied by substituting ''more than 50 percent'' for ''at least 80 percent'' each place it appears.

(3) FOREIGN INCORPORATED ENTITY.—The term ''foreign incorporated entity'' means any entity which is, or but for subsection (b) would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

(4) OTHER DEFINITIONS.—The terms ''person'', ''domestic'', and ''foreign'' have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701(a) of the Internal Revenue Code of 1986, respectively.

(d) WAIVER.—The President may waive subsection (a) with respect to any specific contract if the President certifies to Congress that the waiver is required in the interest of national security.

This section shall take effect one day after the date of this bill's enactment.

The PRESIDING OFFICER. Under the previous order, the second-degree amendment No. 4490, as modified, is agreed to.

The amendment (No. 4490), as modified, was agreed to.

The PRESIDING OFFICER. Under the previous order, the first-degree

amendment No. 4486, as amended, is agreed to.

The amendment (No. 4486) as amended, was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I say to my colleagues, Democrats and Republicans, that I am very pleased this amendment has been accepted. A good part of this is in a similar amendment passed in the House. This will be part of the law of this homeland defense bill.

Maybe I will take up all my time; maybe I should reserve some time to respond. I am interested in what my colleagues, Senators THOMPSON and GRAMM, say about the amendment. Let me explain briefly to other Senators why I have done this.

We did this on the Department of Defense appropriations bill. That was only for 1 year. We offered an amendment yesterday that would bar the Secretary of Homeland Security from entering into contracts with U.S. companies that give up their U.S. citizenship to avoid U.S. taxes.

I will give an example. It is a small story that I think tells a larger story. This is the story of Tyco. We heard all about Tyco International. They saved $400 million in taxes last year by chartering its base in Bermuda.

There was an article in the Wall Street Journal about a month ago that suggested actually these savings might have helped the company buy CEO Dennis Kozlowski's $19 million home in Boca Raton and a $6,000 shower curtain for his place in Manhattan. They have received $220 million in Government contracts. I guess the question is whether or not any of that was used to pay for the shower curtain.

This amendment, and the reason I have been focused on no Federal contracts for expatriates, is all about corporate reform. It is an egregious practice when these companies set up sham headquarters in countries such as Bermuda.

They have no staff. They have no operation. Not only do they not end up paying taxes on foreign profits but they can also take the profit in our own country and then cook the books and move it overseas to Bermuda or wherever else. It is not all that patriotic. It means a lot of other businesses, large and small, in my State of Minnesota and the Presiding Officer's State of Rhode Island get the short end of the stick.

Most of the large and small businesses in Minnesota, Rhode Island, and around the country would never do this. They would not do it, even if they had the lawyers and the accountants to tell them how, because they would not believe it was the right thing to do if they could do it. A lot of smaller businesses would never have the lawyers and the accountants to tell them how to do it.

If these companies are going to renounce their citizenship and engage in this kind of egregious behavior and not pay their fair share of taxes, it seems to me that is fine. Renounce their citizenship and they do not get any more Government contracts. It is that simple.

By the way, I do not think the companies that are good corporate citizens, that do not engage in any of this sham activity, should be penalized. Why should they end up being penalized in bidding for the contracts because they are paying their fair share of taxes or even more because other companies are engaged in this tax avoidance? Why should they be penalized for doing the right thing, which is to stay in our country? That is what is going on right now.

We have a situation where former U.S. companies that have renounced their citizenship currently hold about $2 billion worth of contracts with the Federal Government. This amendment has now passed the Senate, and it is now in the House bill, so it is going to become a part of law. So they are not going to be able to do that anymore.

These Bermuda companies have no staff, have no offices, have no business activity. The only thing they are trying to do is shield income and not pay their fair share of taxes. These are Enron-like schemes involving sham loans and other income transfers that allow these companies to reduce their U.S. taxes on U.S. source income, including income from Government contracts. It is called earnings stripping.

I am pleased with this amendment, and I want people to know about this because it has now passed the Senate. If a company reincorporates in a foreign country and 50 percent or more of the shareholders of the new foreign corporation are the same as the shareholders of the old U.S. company, then they do not get to contract with the Homeland Security Agency, and if the company does not have any substantial business activity in its foreign home. That is the two-part test. This is actually the two-part test in the Grassley-Baucus tax bill, and I thank them for their superb work.

There are many sacrifices people are making today. The only sacrifice this amendment asks of Federal contractors is that they pay their fair share of taxes like everybody else.

I say to my colleagues, I know we had a debate last time when I did this on the DOD appropriations bill. About 99 percent of the people in Minnesota in coffee shops would say: Absolutely. If these companies want to do this kind of tax avoidance, then they should not be getting the Government contracts. I think people are tired of this kind of egregious corporate behavior.

My second point: I am very proud of the fact that the vast majority of businesses in Minnesota and in our country do not engage in this kind of behavior. I do not want to see them put at any kind of competitive disadvantage because they do the right thing.

My third point: I think this is good public policy. I know last time in the debate some of my colleagues said it is a great thing to do, it is a good, populace thing to do, and people are going to be for it—in fact, I think that is why we had a voice vote, because a lot of people do not want to vote against it—but it is not good public policy. There are two Senators in the Chamber who are probably going to say that. They are going to say that in good faith, and they are going to marshal evidence for their point of view.

I have watched them both. Both of them are going to be retiring, and, frankly, though I do not always agree with one of them and I never agree with the other one, both of them have made the Senate a much better place. So I am not arguing that there is not a place for honest, intellectual disagreement.

From my point of view, it is good public policy. There is no reason in the world that these companies should be able to engage in this kind of egregious behavior. It is a big scam. There is no reason in the world that other businesses and other people should end up having to pay more taxes, and there is certainly no reason in the world that the vast majority of U.S. companies, that play by the rules of the game, stay in our country and do not engage in this kind of tax avoidance, should be at any kind of disadvantage.

I am glad the Senate has passed this amendment. I cannot overstate its importance. This is part of maybe the new look in the Senate. The Sarbanes bill was a powerful step forward. It took some jarring events to get that bill out of committee, but all of a sudden people started realizing we have to deal with some of these scandals, we have to deal with some of these abuses.

We are going to have a pension bill on the floor soon. That is going to be part of this. I am really glad the Senate has now passed this amendment because I think this is all about dealing with these kinds of corporate abuses. This is all about corporate accountability, and this is all about reform.

I am very proud of the fact the Senate has accepted the amendment, and I thank my colleagues for doing so.

I ask unanimous consent to add Senator JOHNSON and Senator HARKIN as original cosponsors.

I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

Mr. GRAMM. Mr. President, this amendment is a perfect example, if one goes around doing surveys to decide on public policy, of how far afield from logic and reality and good sense one can get.

Let me try to make a couple of points. If someone wants to get a good,

rousing round of applause in front of any group, stand up and say companies that are domiciled in the United States that change their domicile to any other country should not be able to do business with the Federal Government. They will get applause every time.

I wonder if one is going to get the applause when they explain to people that for the entire history of America, companies born in other countries have moved their domicile to America because we have had a better business climate.

Secondly, let me make it clear that these are private businesses. This is private property.

Another point: we sell about 80 to 90 percent of all defense and security goods sold in the world. They are produced by American companies, by American workers. The vast majority of those companies are domiciled in the United States, although not all of them. Why in the world we should be saying to the various parliaments and congresses around the world—some of whom may be having similar debates about why should they buy goods for their government that are produced by Americans when they can produce inferior goods at higher cost at home—why we should be picking this fight, I do not understand.

Finally, the world must think we have gone mad. We are the country that has drawn capital and business and literally created a brain drain in the world as people have voluntarily chosen to come to America and bring their wealth and bring their genius. They have helped make us the greatest country in the history of the world, but now the greatest deliberative body on Earth is trying to punish people who want to move the domicile, the headquarters, of their company, to another country? If I have ever seen logic in history turned on its head for political reasons, this is it.

This bill is not prospective. It does not make any sense. What about a company that was born in America and in 1812 decided that most of its business was in Britain? Now, we have to understand, Britain is the largest investor in the United States of America and they are investing tens of billions of dollars in our country every day. But we will say, because a company in 1812 decided it could operate its business better by having the headquarters in London, but the ownership of the company did not change, that we are not going to let them do business with the Federal Government?

Finally, this is simply a sign of a logic that is very dangerous; that is, this logic that somehow this is America against the world, and people are trying to get their businesses out of America, get their wealth out of America, and we have to stop them. For the long history of America, the preponderance of movement has been into our country, not out of it. Do we want other countries to be passing laws to prevent businesses from moving to America? I don't think so.

In the Finance Committee today, there was an effort to mark up a bill—and people will think this is a joke, but it is the truth—that said if you own property and you want to leave America and you want to go become a citizen in Ireland or Germany or Argentina, we will act as if you have sold your property, and you have to pay a tax to the American Government before you leave. Now, forgive me, but that is right out of Nazi Germany. I don't understand, when people are trying to bring wealth to America every day, when we have been a net gainer from people moving capital for over 200 years, why all of a sudden we are passing laws that sound as if they are right out of Nazi Germany.

The idea that somebody cannot leave America and take their property with them, that they have to pay a tax in order to get their property out of America—forgive me, but that rings of another era and another system, a system that I hated when I read about it as a schoolboy, and I still hate it.

Look, it is good politics to bash on companies that are increasingly international. Many of these companies end up with more American employees by relocating their headquarters than they would have otherwise. It is very good politics to say: We are going to show them. Move your headquarters out of America, or if you did it in 1812, you can't do business with the government. It is good politics, but it is terrible public policy.

We have probably, over the 200 years with active commerce in America, gained 100 companies domiciling in America for every one that has gone in the other direction. Do we really want to create an economic war where companies say, if you ever open a headquarters in our country, you can never move it anywhere else? Do we want that to happen to companies that want to come and locate in Texas? I don't think so. So, boy, you can get a great, rousing applause—probably even the Rotary Club would applause this—until they understood what you were talking about.

We took this amendment because people do not want to vote on it. I am happy to vote on it. This is a bad policy. It is a wrongheaded policy that is basically counter to everything we believe in as a nation. If you do not want to live in America, I just as soon you leave. If you want to take your property, great, go to it.

Now, the fact that for the whole history of America, property and people have been coming our direction, that does not change the fact you either believe in freedom or you do not. But to start saying, in order to sell us a good—even if your product is better, even if your product would save lives, even if your product would save money, if anyone cares about saving money—that you cannot sell it to us if, in 1812 you were domiciled in Boston and you moved to London and you did not change your ownership by moving. People make business decisions for business reasons. Part of what economic freedom is about is the ability of people to move their money and to move their labor by moving themselves.

It is great to get rousing applause. It is wonderful. I don't doubt that 90 percent of the people in Minnesota would be for it. I am not criticizing Minnesota. I don't believe 90 percent of the people in Texas would be for it, but there may be. There may be. But whether it is 90 percent or 100 percent, you either believe in freedom or you do not.

And I must stand up and speak out when, for over 200 years, people have been bringing their businesses to America, bringing wealth to America. We had almost $100 billion of wealth coming to America annually in the 1990s. Why we are suddenly passing laws saying you cannot go in the other direction? The problem with that is, if you cannot take it out, you will not bring it in.

One of the reasons I am being so hard on the Senator from Minnesota is this amendment we had in the Finance Committee today. I am sure somebody can defend it and say: People ought to pay taxes. We want their taxes. We want their money. We do not want them to take their money out of America.

Look, it is their money. It is a free country. Being a free country does not mean that you can do business with the Government if you do what the Government wants you to do. Freedom means you can do whatever you want to do. If people want to move their businesses, they ought to have a right to do it. If people want to take their money, their wealth, and move to France—I don't know why in the world anyone would want to do that—but if they do, my basic position is, God bless them and let them go. For every person that does that, there will be three people from France who want to move their wealth here.

Good applause. Great political issue. You could run a dynamite political spot on this: Old Joe Jones voted to let people move their businesses out of America and that cost us tax revenue. Yet he let them sell to the Homeland Security Department.

To me, that is what freedom is about.

This is bad policy coming on the same day as this Finance Committee bill that would force you to act as if you sold your property when you want to leave America, to pay a tax. God forbid this should be the policy of the United States of America. And it is not going to be. This amendment is not going to become law. I intend to work very hard to see it doesn't. I don't believe it will.

Again, nobody wants to vote against it. Everybody is going to applaud it, but in the end, some logic is going to prevail. When for 200 years people have been bringing wealth here, moving

businesses here, why we want to prevent people from going in the other direction is beyond my comprehension, other than we are going to get a big applause in doing it. Applause is a poor reason to have public policy.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I will take just 2 minutes, and I know the Senator from Tennessee will speak. I assume I have a little bit of time.

The fact is, this will become law. It will be in this bill. It will stay in this bill. The House passed a similar provision.

I will say a couple things to my colleague from Texas. I appreciate what he said, although I think a lot of it did not describe this amendment. This is not about buy America, or about business moving. It is basically about going after tax cheats. It is about people paying their fair share of taxes. Frankly, as long as we are going to talk about freedom—

Mr. GRAMM. Will the Senator yield on that?

Mr. WELLSTONE. I will be glad to yield.

Mr. GRAMM. Nothing in this amendment talks about taxes. This amendment says if you redomicile without changing half your ownership, that you can't sell the products in America.

You are assuming that if I move my business to France that I did it for tax reasons. I may do it for some other reason. I may just do it because I like French food.

So you are acting as if the only reason people do this is for taxes. And, even if that were the case, that wouldn't change my opinion.

Mr. WELLSTONE. No, I would say to my colleague—I appreciate it and I will finish up—I know I will not change his opinion. I am well aware of that. I will just tell you the Senate Finance Committee did a pretty thorough investigation of this, and we know very well that these companies have engaged in what I think is blatant tax avoidance. We know they set up these sham companies that don't have personnel there or they do not do any business there. We know they avoid paying taxes, including actually transferring some of the money they made in this country to avoid taxes. It is Enron-like schemes.

You talked about freedom. I am free, as a United States Senator, to introduce a piece of legislation that says we go after these tax cheats and they should pay their fair share of taxes. I am free, as a Senator from the State of Minnesota, to represent the people of my State and do so, and that is what I have done and this amendment passed and that is a fact.

Frankly, when my colleague says: Well, the only reason it passed is because it is just a popular thing to do, so Senators really would not have voted against it, that is quite an indictment of the Senate. I would have thought if the majority of Senators believed this was bad public policy, they would have been out here to oppose it—or at least some of them would have. I have to believe the majority believed it was good public policy. Otherwise I don't think it would have passed. I don't assume Senators are afraid to come and debate and are afraid to express their viewpoint and are afraid to oppose a policy if they don't think it is a good public policy. If that is the case, it is a sad commentary.

As my colleague knows, I would have been pleased to debate anybody because I think this is absolutely the right thing to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, we have other business to attend to, so I am not going to belabor this. Let me make my point. Nothing in this amendment has anything to do with or says anything about tax cheating. This amendment would apply to a company that moved from the United States to Great Britain in 1812.

The Finance Committee did not do any great deliberation in coming up with this amendment. It was a pay-for, something to create money they wanted to spend, and it seemed like a popular thing to do. Let's not deceive ourselves into thinking any great thought was behind it. And anybody who does not understand that amendments pass every day in the Senate that everybody hopes and believes will end up dying somewhere in some dark corner somewhere—where much of God's work is done, by the way—then I don't think they understand the reality of politics.

So I just stand by the following points: First, this amendment has nothing to do with taxes. This amendment is punitive to companies that may have started in America, may still employ 90 percent of their people in America but are now domiciled abroad; that is, they call another country their economic home. The incredible paradox of the amendment is that for every American company that has moved abroad, 100 have moved to America over the last 200 years.

Look, it is going to be on this bill. It is in the House bill. But I do not believe it is going to become law.

Second, I want to make the point that we are going to end up hurting America in the capital markets of the world if we keep this business up. If we had our major trading partners pass and enforce a similar law, we would lose 100 or maybe 1,000 companies that are coming here for every one we are preventing going there. This is not smart.

Third, I just have to raise this provision considered by the Finance Committee, which is based on the same logic: How dare anybody move out of America and take anything with them? My God, for over 200 years, people have moved from Asia and Europe and South America and everywhere, and they brought wealth with them to America. The idea of taxing people to get out of your country, the most dramatic example of that I remember is Nazi Germany.

So I just ask people to please take a long, hard look at some of these things we are doing. Some people think they won't actually become law. I hope not. But I do believe we are going to reach a point where we are going to begin to do some harm. The people in the financial markets around the world must think we are crazy when they see these kinds of amendments.

I yield the floor.

Mr. DODD. Mr. President, I would like to thank Senator WELLSTONE for introducing this important amendment to the homeland security bill.

Our international tax code currently has a loophole that allows U.S. corporations to open shell companies in tax haven countries while enjoying all of the benefits of conducting business in the United States without paying taxes. The Finance Committee has reported out a bill that temporarily addresses this very issue. I hope that in the coming weeks we will debate and pass the Finance Committee bill.

The amendment currently before us prohibits the new homeland security agency from contracting with any corporate expatriate. I commend my colleague for introducing this fair and very simple amendment. What this amendment says is that if you are incorporated outside of the United States and do not have substantial business activities in the foreign country you are incorporated in, and if at least 50 percent of the stock of the entity is held by former shareholders of the domestic corporation or by former partners of the domestic partnership, you will not be allowed to contract with the new homeland security agency.

Also, unlike previous discussions on this issue, Senator WELLSTONE'S amendment includes all inverted companies, so that there is no difference between companies who have just inverted or have been inverted for 6 months or 6 years. This is plain and simple, and more importantly, this is fair.

The U.S. government should not be in the business of contracting with U.S. based corporations that are avoiding their tax responsibilities by incorporating in offshore tax havens. Corporations have a right to determine where they should incorporate and what is best for their business, just like we have a right to determine how hard earned U.S. tax dollars should be spent. I strongly believe that U.S. tax dollars should not be spent in government contracts to companies that have expatriated in order to avoid paying taxes.

Companies who are or will be affected by this amendment must understand that there are benefits and costs to the decisions they make. This amendment, if adopted, will force corporations to include in their calculus

the fact that they may no longer be able to enjoy the earnings that are brought to them through Government contracts if they incorporate off shore to avoid U.S. taxes. That may or may not alter management's decision to move—management may decide that it does not matter that the company will not be able to contract with the government. If this is the decision, so be it. But we should not perpetuate a system that puts companies that do pay U.S. taxes at a competitive disadvantage because their counterparts have less of a tax burden.

I represent the State where Stanley Works is located. Stanley Works has a wonderful history and tradition in Connecticut, and so it was a great disappointment to many of us when they took steps towards inverting their company to Bermuda. Obviously Stanley Works executives weighed the benefits and costs to inverting the company and found that the costs outweighed the benefits, and so I can speak on behalf of Connecticut when I say, that we are pleased that Stanley Works dropped its plan to reincorporate to Bermuda.

In FY 2001, Stanley Works had a total of $5.2 million of defense and homeland security related Government contracts. Now that they are going to stay incorporated in the U.S., they would be put at an unfair disadvantage if they have to compete with companies who also weighed the cost and benefit, but decided that they are better off leaving the U.S. or remaining incorporated outside of the U.S.

The amendment currently before us takes away this unfair advantage. And so if companies like Ingersoll-Rand, Cooper Industries, and others are interested in continuing to contract with the Federal Government, then all they have to do is come back.

To continue to contract with companies that have inverted, to continue to allow companies to engage in tax saving techniques not available to most individual taxpayers and yet still be eligible for important and profitable government contracts, would in the words of the Treasury Department, ''reduce confidence in the fairness of the tax system.''

U.S. companies that have decided to move offshore currently hold at least $2 billion worth of contracts with the Federal Government. We have a responsibility to ensure that these offshore shell companies are not rewarded for turning their backs on America. And that is exactly what this Amendment does.

At a time when confidence in U.S. business practices is at an all time low, when the country is engaged in foreign policy challenges, and when CBO is projecting lasting deficits until 2006 we cannot continue to condone this practice, and we surely cannot allow the Government to continue to allow this unfair loophole to continue. Offshore tax havens are a massive $200 billion loss of U.S. tax revenue that should stay in the U.S. The 2002 U.S. deficit is expected to be at $157 billion—a deficit that would be closed were these offshore companies to pay their fair share of taxes.

I think that we can agree that we must address the problems in our flawed international tax code which is obviously in need of reform. There are problems with the fact that the tax code is currently putting American companies at a competitive disadvantage by taxing income from their overseas operations while other nations do not tax income earned abroad. But what we need to do is work together to change the law and not just abandon ship and reincorporate. And so while we work on making changes to the tax code, it is important that we do not disadvantage those companies who remain in the U.S. by also awarding contracts to those who have left. That is why I am pleased that this amendment passed the Senate today.

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, the Senator from Texas is right. This is a significant change in procurement policy. The Senate Committee on Governmental Affairs, which has jurisdiction over Federal procurement policy, has not had a single hearing to consider this issue and the impact it will have on the procurement process.

I think at the outset it ought to be observed that it is very unfair to publicly accuse a company of being a tax cheat when they have not violated one single law, rule, or regulation of the United States. I have been informed since this discussion has been going on that one of the many unintended consequences, probably, and potentially unintended results, is one involving a company called Intelsat.

If we are going to prohibit companies from dealing with the new Department of Homeland Security, why limit it to the Department of Homeland Security? Let's prohibit them from doing business with—I guess, the closest comparable department would be the Department of Defense. But the Department of Defense uses satellites of Intelsat.

I do not know the extent of the traffic, but I think it is significant, and I know it is important to the national security of this country. Intelsat is a Bermuda company, and it is an inversion. That is the sort of thing we are dealing with, if thoughtful people think this thing through before we finish up this process.

Another result of this amendment would be to allow foreign companies that have always been foreign companies to be able to bid on Department of Homeland Security contracts. But it would preclude foreign companies that have at one time in the past been headquartered in the United States from bidding on those contracts, even if the work would be performed in the United States by American workers.

So if you have always been foreign, you can deal with the Federal Government. But if at one time, at any time in your past history you were an American company, you can't. That doesn't make any sense to me.

I am also concerned that this amendment might violate our trade obligations because it is discriminatory against certain foreign-based companies. If we were to enact the amendment, what would be the unintended results? I am concerned we would be giving governments an excuse to ban U.S. companies from bidding on foreign contracts, when we have been fighting to get foreign governments to open their procurement process to U.S. companies.

Denying a company the ability to be awarded Federal contracts based solely on the location of its headquarters represents a significant change in Federal procurement policy and counteracts years of work to streamline the Federal acquisition process. If we begin to use Federal contracts as leverage against potential contractors, the system will inevitably become highly politicized and the goal of obtaining the best value on Government contracts will no longer be a priority; It will be a political football, where the procurement process will turn into an attempt to punish our enemies and reward our friends instead of trying to get the best deal for the Government—which, of course, is the best deal for the taxpayer, who the proponents of this amendment claim they are looking out for.

Government contracts are not gifts. Federal contractors face a burdensome process full of redtape, paperwork, and unique Government regulatory requirements. That is why it can be difficult to get multiple companies to even bid on a contract.

We have attempted to streamline this process in recent years in order to increase competition, to save taxpayers money, but restrictions such as this discourage companies from bidding in the first place. We do not want to end up in a situation where DHS has to rely on sole-source vendors because we prohibit the Department from contracting with an inverted corporation. The least we could do is provide the Secretary with the authority to waive the ban in order to ensure competition in the bidding process. That procurement bar is a serious sanction, reserved only for egregious conduct such as fraud or criminal offenses in connection with obtaining the contract or performing a public contract.

What is important to Government procurement officials when evaluating a contract bid is not where the bidding company is headquartered. They look at where the work is to be done, whether the company will do a good job, and whether the bid is cost effective.

Whether or not you believe corporate inversions should be prohibited, the fact of the matter is that inversion transactions are legal under the current tax laws. Because the amendment

is retroactive, it would bar companies that have engaged in legal behavior—an inversion—from bidding on DHS contracts. The inversion could have occurred a year ago or 10 years ago. Either way, these companies had no way of knowing that they could be banned from bidding on federal contracts if they inverted.

This amendment's definition of an inversion is problematic, because it would snag any company that inverted at any time if 50 percent of the shareholders are the same before and after the inversion. This amendment would not just go after the sham transactions that are targeted by the Finance Committee bill. It would also catch companies that engaged in inversion transactions for legitimate business reasons. The Finance Committee-reported bill has an 80 percent shareholder test, which is intended to target the most egregious transactions.

It is important to note that these companies do and will pay U.S. tax on the income earned from their government contracts regardless of whether they are headquartered in the U.S.

The amendment does not address the root cause of corporate inversions, which is our highly complex foreign tax regime that taxes companies on a worldwide basis. U.S. tax laws put domestic companies at a distinct disadvantage relative to their foreign competitors who are taxed on a territorial basis.

That is the heart of the problem. That is the root cause, and that is what we ought to be addressing.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut is recognized for up to 10 minutes.

Mr. WELLSTONE. Mr. President, I wonder if I could have 2 minutes.

Mr. LIEBERMAN. Mr. President, I yield 2 minutes of my time to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, that is very gracious of the Senator from Connecticut.

I just wanted to say again that I appreciate the remarks of both of my colleagues. I did want to address one point that was made by my colleague from Texas, which is to say this won't become law when almost the identical provision was passed in the House and the Senate has agreed to it. I believe the chairman of the Senate Governmental Affairs Committee is committed to it. I believe there are many people in the House who are as well.

I will tell you one other thing. The public is committed to this as well. There are going to be a lot of people looking at the conference committee. The only time I get feisty is when there is an implication: Oh, well, you know we don't want to go on record because we are afraid to oppose it, which I think is unfair implication. I think it is bad public policy. They come out here and say: We will just knock it out in the conference committee; never mind that the vast majority of people think, of course, this is about tax avoidance; of course, we know what we are doing. Don't worry about that because it will be business as usual. We will just go to the conference committee and knock it out.

I want to say to my colleagues that I believe there are many Senators and representatives in that conference committee who will make sure that doesn't happen. I sure will be monitoring this. It will become law. It is not going away. We will not be back to the business of helping these corporations with all their egregious behavior and thinking they can get away with it. It doesn't work that way any longer. It is a new world. People do not stand for that kind of egregious behavior.

That is the standard of ordinary citizens and good public policy.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I want to speak in favor of the amendment that the Senator from Minnesota has introduced, which has been adopted, as amended. I want to say to him that not only do I support it personally, but as the manager of this bill and as chairman of the Governmental Affairs Committee, from which the underlying bill has emerged, when we go into conference on this bill with the House, I will naturally have in mind not only my personal support of the Senator's amendment but the fact that the Senate has adopted the amendment by voice vote unanimously. I will be pledged to do everything I can to keep it in the ultimate conference report, particularly since the House has adopted a similar amendment.

Mr. President, I want to speak briefly on this. I think the Senator has done something that is important and that is just. He attached this to a bill on homeland security. But it responds to a broader problem. It does, in a sense, touch the same spirit of patriotism that we generally responded to after the events of September 11 which engendered the basic bill before us. It is this notion that a significant number of American businesses that have been born and grown up here, benefitted from all the opportunities that America provides, decided to wriggle their way out of the taxes and locate offshore to avoid paying taxes to the United States of America. This is just wrong. It is like so much else that is going on around it.

Unfortunately, more than a few of our biggest companies have chosen to incorporate overseas and thereby avoid paying U.S. taxes.

Evidently, these companies have asked themselves if it is legal instead of asking if it is right or wrong. They have had some lawyers or accountants tell them it is legal to do this. Legality isn't the only standard for what is right and wrong.

It seems to me that a company that has grown up in America and that has benefitted from American workers and all that America does to create a climate for enterprise, economic growth, and markets for goods and services that are provided ought to, as an act of citizenship, even though it might not be illegal to go offshore, as an act of citizenship pay its fair share of taxes.

My dad was a small businessman. He did well as he went along. I always remember, it makes me think that I was raised in an age longer ago than it was. In fact, my dad used to say: I never complain about paying taxes because the taxes I pay are the price I pay as a businessman for doing business in this country, for the extraordinary not only blessings of liberty that America gives, but as part of that, the blessings of economic opportunity that are allowed me—dad never went to college—to start this business and be able to make enough money to send my kids to college and graduate school.

That ethic, which is still shared by the great majority of businesses in our country, including particularly, may I say, small businesses that don't have the wherewithal to kind of wriggle their way through the legal system, is not reflected as often in the actions that we have seen documented so well.

I share the view of many of my colleagues that we should close the tax loophole to prevent companies from further irresponsible behavior. That is the most direct way to address the problem. But I also support this amendment, which sends a simple and profound message: if you don't want to participate as U.S. citizens and pay your fair share of taxes, then don't expect to make billions of dollars of profits from U.S. government contracts that are paid with the tax dollars of Americans who pay their fair share in taxes.

My State of Connecticut has some recent history on this issue—history with a happy ending—that I would like to relate to the Senate. Back in May, StanleyWorks, a proud company based in New Britain, wanted to pack its corporate bags and reconstitute in Bermuda. And not because its executives wanted to try driving on the left side of the road. It was because some of its leadership decided it would be nice to avoid paying taxes to the United States of America.

It is sad and ironic, when you think about it. This company was founded in ''New Britain''—a name that calls to mind our roots as 13 colonies that broke away from the mother country because she tried to tax us from afar without giving us the rights, representation, and respect that we deserved. And here was a New Britain-based company thinking of setting up a shell in Bermuda to avoid paying taxes even though it is in every other way a full-fledged citizen of our United States.

StanleyWorks started in 1843 when an enterprising businessman named Frederick Trent Stanley set up a small

shop to make door bolts and other hardware from wrought iron. It was one of dozens of small foundries and other backyard industries in town struggling to make a go of it by turning out metal products—but Stanley had a special innovative spirit and an uncommon passion for doing things right. So, as often happens in America, what began as a modest enterprise prospered and grew.

To see this company so willing to scrap its proud history and proud presence in my State, and to see similar things happening around the country, really got me angry. It got a lot of us angry. And with good reason. Thousands and thousands of hardworking small businesses like the business my father owned and operated, and thousands of corporations, contribute to America every single day—not only the way that all businesses do, by producing jobs for Americans—but also by paying their fair share of taxes. Meanwhile, other companies have the gall to look for a clever way to fatten their bottom line and get an edge over their competitors who play by the rules.

That is why in May I cosponsored the bill by Senators BAUCUS and GRASSLEY to close the tax loophole that Stanley attempted to exploit, and supported adding to that bill a provision preventing overseas tax dodgers from competing for or receiving federal contracts.

I am proud that at least in my State, at least with StanleyWorks, a little bit of shame seemed to have an effect. StanleyWorks decided not to go overseas after all. They made the right decision, and I appreciate it.

But other corporations are still busy relinquishing their American citizenship and, in the process, relinquishing their good corporate citizenship in the very same act. Mr. President, when you wriggle out of taxes you wriggle out of responsibility. When you evade the basic requirements that everybody else meets, you erode our common bonds as a community. It may seem to make sense for individual companies at first when they're viewing through the narrow and amoral blinders of the bottom line, but it's downright destructive for American society as a whole.

And I must say, in the end it may not help a company's bottom line either, and this amendment helps make that clear. The fact is, when a company thumbs its nose at the country that gives it the opportunity to prosper, it loses credibility. It loses trust. It loses respect. It loses customers. And, yes, though it may seem that way based on the initial calculations of the CFO, it loses money.

Good ethics make good business. This amendment leaves no doubt about that fact. The border, in this case, is the line between right and wrong. We in Congress have to draw that line—to say that if you cross it, you will not be eligible for Federal contracts. Plain and simple.

In the context of Homeland Security, these actions seem even more unsavory. If a U.S. company wants to bid for work to defend the homeland—work that is being paid for in the tax dollars of its customers, among others—how can that company not even pledge allegiance, in the most basic fiscal sense, to the United States of America?

This measure that the Senator from Minnesota has attached is right on target. It says if an American-based company is not willing to pay taxes to America, they ought not to receive contracts through the new Department of Homeland Security that we are establishing in this bill, which after all are contracts that will be paid for by taxes paid by American companies. To me, that seems to be elementary fairness.

So I close with a quote from Paul Krugman of the New York Times, which I think says it well, when he wrote:

> [T]he trouble is that hinting, even by silence, that it's O.K. not to pay taxes is a dangerous game. . . . Accountants and tax planners have taken the hint; they now believe that it's safe to push the envelope. . . . Furthermore, what does it say to the nation when companies that are proud to stay American are punished, while companies that are willing to fly a flag of convenience are rewarded?

That is what this amendment is all about and why I was pleased to support it on the voice vote and why I intend to work with all the strength and skill I have in the conference committee to make sure it is part of the final conference report that comes back to the Senate with this bill.

I thank the Chair and yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I think under the unanimous consent request I have 20 minutes to speak on the bill. We have been talking about the amendment of the Senator from Minnesota, and I had yet to get the 20 minutes. I think maybe the Senator from California was under the impression that I had spoken before that debate but——

Mr. LIEBERMAN. Mr. President, if the Senator will yield?

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. It was my understanding, in the unanimous consent agreement Senator REID propounded, that Senator GRAMM would have a total of 20 minutes, which he could use either to speak on the Wellstone amendment or more generally on the bill.

I see Senator REID in the Chamber. Perhaps he can clarify.

Mr. REID. Will the Senator from Texas yield?

Mr. GRAMM. I will be happy to yield.

Mr. REID. I thought you were going to speak 20 minutes on the Wellstone amendment, and then Senator WELLSTONE would speak for 20 minutes, and then 20 minutes for the two managers. But if you want to speak on the bill, that certainly is your right.

The thing is, we have been waiting to finish this Smith-Boxer amendment. We would like to get that done. But if you have the understanding that you were to speak for 40 minutes——

Mr. GRAMM. Mr. President, probably we could move everything along by my just starting and trying to be expeditious. I speak slowly, so I will try not to repeat myself.

Mr. REID. The Senator has the floor, and he has the right. I would just indicate to everyone, we are going to have a vote sometime this afternoon on the Smith-Boxer amendment. Everyone has agreed that would take place. So everyone should understand that after the Senator from Texas completes his statement, Senator BOXER will modify her amendment to meet a couple of the objections that were raised, and then she will speak, Senator SMITH will speak, and maybe even Senator HOLLINGS will come and speak.

So I would estimate that probably at around 4:30 or thereabouts we could have a vote on the Smith amendment. I think that would be all of the legislation on this bill today.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Texas.

Mr. GRAMM. Mr. President, we have started the debate on homeland security, and one of the things that has struck me is that while we have talked about the President's request for flexibility—about his ability, in a national emergency, to override collective bargaining agreements—the debate, to this point, has basically been in the abstract. So while it does not make for a pretty speech, I would like to try to get specific this afternoon for 20 minutes and try to give some concrete examples as to what this debate is about.

The President has said that in order to protect the American homeland, he needs the ability to put the right person in the right place at the right time, and that he also needs the ability to move or remove people who are not capable of doing the job that needs to be done in order to protect our country, its people, its property.

I would like to just note the following things on this issue. No. 1, this is not a new concern. In 1984, the Grace Commission stated:

> The lack of integration of the INS, the Border Patrol, and the Customs Service would lead to security breakdowns.

That was the Grace Commission in 1983.

Does anybody doubt when INS approved a visa for two of the people who flew airplanes into the World Trade Center, after their pictures and names have been on every television station and every front page of every newspaper in the world, that the concern expressed by the Grace Commission in 1983 has been borne out?

In 1989, the Volcker Commission, on the National Commission on Public Service, concluded:

> The current system——

They are talking about our system of hiring, firing, and promoting.

The current system is slow, it is legally trampled, and intellectually confusing. It is impossible to explain to potential candidates. It is almost certainly not fit for filling the spirit of our mandate to hire the most meritorious candidates.

Does anybody doubt that the young lady who was an FBI agent who tried to warn headquarters that we had suspected terrorists taking lessons on flying planes but not on landing them should have been promoted and given a raise? I think the concerns of the Volcker Commission in 1989 have been borne out.

And then the U.S. Commission on National Security, chaired by our dear friend and former colleague, Warren Rudman, stated:

An agile, flexible personnel system is required for us to have a successful defense of the American homeland.

We can debate whether the current system is flexible enough, but let me just let the facts speak for themselves. And they are pretty simple facts.

Mr. President, 1,800,000 people worked for the Federal Government in the year 2000—1,800,000. How many do you think were fired because they were incapable of doing their job? With 1,800,000 people working for the Federal Government, how many of them do you think lost their job because they were not getting it done? The answer: 6.

In 2001, how many Government employees do you think lost their job out of 1.8 million because they were not getting the job done? The answer: 3.

Does anybody believe that all but three Federal employees in all of America, in every agency combined, would have met the standards of the private sector to keep their job? I do not think so.

Only 500 people out of the 1.8 million people who worked for the Federal Government were demoted in the year 2000 for lack of performance. Only 600 were denied pay raises.

Think about that. The vast majority of people who got bad ratings—over 99 percent of the people who work for the Federal Government who were given failing grades on their evaluations—got automatic pay increases with the Federal Government. No wonder two-thirds of Federal workers, in independent polls that have been conducted, believe that poor performers are not adequately disciplined. Further, nearly half of all Federal workers believe that job performance has little or nothing to do with a chance for promotion.

It seems to me when you look at these facts, the President is simply asking, in the area where life and death are at stake, to have greater flexibility in being sure we hire the right person; it does not take 6 months to do it; and if somebody is clearly not doing the job, that we at least move them out of these highly sensitive areas.

In listening to people who are defending workers instead of defending the homeland, you get the idea that the President is proposing a wholesale rewriting of personnel laws.

I just want people to look at the facts and see that under the President's bill, only 6 of the 70 chapters in the Federal Registry governing the civil service system are modified, and none of them is repealed.

Another area where people are wondering what are all these politicians talking about is this whole area of collective bargaining. Why, in this area of national security, in order to get a decision made and to get up our shield and to protect our people, does the President want to be able to waive collective bargaining agreements on a selective basis?

I simply picked out 8 that are very different to give you examples of the kind of problem you have in trying to make the Government work. Please forgive my clumsiness in reading them, but they are pretty revealing.

No. 1: Collective bargaining agreements can prohibit improvements to border protection in inspection areas. Let me give an example. In 1987, the Customs Service office at Logan Airport was renovated with a minor change in the area where the baggage of international flight passengers was inspected. The National Treasury Employees Union objected, saying the renovation had to be part of a collective bargaining agreement. The Federal Labor Relations Authority ruled that the Customs Service could not renovate its baggage inspection areas without a collective bargaining agreement.

Are we kidding? Are we going to put American lives at stake over changing collective bargaining agreements so that we can upgrade inspection areas? I don't think so. I don't think that is protecting workers or protecting jobs. I think that is protecting the status quo and exposing Americans to being hurt.

Let me give another example: Collective bargaining agreements can prohibit agencies from working together to protect the border. President Clinton's drug czar, Barry McCaffrey, as many will remember, noted the separate union rules that controlled how its inspectors would search vehicles. According to the San Francisco Examiner—this is General McCaffrey speaking—

Officials at one agency were actually forbidden to open the trunks of cars, a policy well known to drug dealers.

We are not asking people to share toothbrushes. We are just asking that the President have the ability to jointly train people at the Border Patrol and at INS and at Customs so that they can work together. This is a perfect example of where that has not happened.

Another example: Collective bargaining agreements could prohibit agencies from increasing the number of immigration inspectors. In 1990, the Immigration and Naturalization Service added an extra shift at the Honolulu International Airport to handle a surge of international flights in the afternoon. The American Federation of Government Employees objected, saying the new shift affected overtime and differential pay of existing workers and had to be negotiated with the union. The Federal Labor Relations Authority agreed that new shifts of border inspectors could not be added without a collective bargaining agreement.

Do we really think the President ought to have the ability to add personnel if our lives are at stake? I think the answer is yes.

Another example: Collective bargaining agreements could prohibit special task forces of the Border Patrol from being deployed in any region. Let me read you the union agreement and what it requires for deploying Border Patrol. I am not criticizing them. I have been maybe the biggest supporter of the Border Patrol. Under normal circumstances, when you are posting people, you want them to be posted in areas where they can preserve the basic quality of life. But let me read to you what the union agreement says.

They have to be posted where there are ''suitable eating places, drug stores, barber shops, places of worship, cleaning establishments, and similar places necessary'' to sustain the comfort or health of the employees.

In peacetime, when we are getting the job done, that is perfectly reasonable. But are we going to stand by and let a union work agreement say that we can't, in an emergency, deploy the Border Patrol where there are no dry cleaners? I don't think so.

Another example: Collective bargaining agreements could prohibit the forward deployment of the best Customs Service inspectors to foreign ports to inspect container ships destined for the United States. Unions are currently negotiating with the Customs Service to determine which inspectors will be shifted abroad based not on merit, but on seniority.

When we have a critical area where people's lives are at stake, we can't be fooling around with seniority. We have to give the President the right to say: Look, that agreement is perfectly good under ordinary circumstances, and at the post office we are going to agree with it. But when people's lives are at stake, we are not going to be fooling around where we can't put the best person in the best place. That is what this debate is about.

Another example: Collective bargaining agreements could prohibit agencies from implementing a new body search policy on detainees. Listen to this one. In 1995, the INS sought to change its policies regarding body searches and detentions in order to protect employees from harm and the Service from lawsuits. The American Federation of Government Employees insisted that no change in body search policy occur until a broader collective bargaining agreement was reached. When the INS implemented the new policy, the union challenged it before the Federal Labor Relations Authority, and they ruled that the new body

search policy could not be implemented without a new collective bargaining agreement.

The President is asking for flexibility in the name of national security. This is exactly the kind of circumstance he is talking about. When we have people at these press conferences saying, protect our workers, they are not talking about protecting workers, they are talking about protecting agreements that don't make any sense, given that we have had over 3,000 of our fellow citizens killed.

Let me give you a couple more examples. Collective bargaining agreements could prohibit agencies from canceling annual leave during a border crisis. In 2000, the Customs Service was pushing a drug interdiction effort along the Florida coast. When annual leave was canceled, the union filed a grievance on behalf of those Customs officers who wanted to attend the World Police and Firearms Games. The FLRA ruled that despite the interdiction effort, annual leave could not be canceled.

When people are saying the President doesn't need this authority and these agreements are sacred, is anybody willing to say that in order to protect people's right to go to some conference, we are going to deny the President the ability to say no, today we are going to protect people's lives in your hometown? I don't think so.

Let me give you one more example. Collective bargaining agreements could prohibit agencies from disbanding a single office. In 1991, INS attempted to shut down a unit facility due to a steady decrease in activity and staffing. No more than two union workers were at the facility in its last year, and one manager was capable of handling the workload. Yet, the union challenged the move and the Federal Labor Relations Authority ruled that the elimination of any unit could not occur until the collective bargaining agreement was changed.

So when we are talking about giving the President, for national security reasons, the right to waive these work rules, this is exactly the kind of thing that we are talking about. When people's lives are at stake, should we be able to deploy the Border Patrol on a sustained basis where they don't have dry cleaners? When people's lives are at stake, should we be able to change facilities without renegotiating union contracts? When lives are at stake, should we be able to require that people that were attending some conference stay on their job to protect our fellow citizens? That is what this debate is about.

The President has asked for the right to use a policy that has been available to every President for the last 20 years. Yet, in this bill, when we are supposed to be promoting homeland security, that right is taken away from the President. So what has happened here is we are providing a lot more money, and that will help. But we are imposing restrictions on the President that guarantee the money will not be well spent.

I understand the power of special interest groups. I understand that people have other concerns in national security. But I think, under the circumstances, given the crisis that we face, that those who say the President is trying to trample on labor rights, trying to take away from unions their power, I don't think they have a leg to stand on. I think if my colleagues would look at these examples, they show very clearly exactly the kind of thing we have to do.

Finally, I believe that the vast majority of people who are going to be in these emergency agencies would like to have these restrictions removed. They would like to have promotions based on merit. They would like incompetents who endanger their lives, as much or more than they endanger our lives, to be removed. That is what this debate is about. We have been sort of shouting back and forth at each other, and I thought it was important to come over and put some meat on the bones and give concrete examples.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

AMENDMENT NO. 4492, AS MODIFIED

Mrs. BOXER. Mr. President, I send a modified amendment to the desk, which has been cleared by Senator SMITH and myself, regarding training for pilots and flight attendants.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 4492), as modified, is as follows:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

In lieu of the matter proposed to be inserted, insert the following new title:

TITLE ____—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT

SECTION ___1. SHORT TITLE.

This title may be cited as the ''Arming Pilots Against Terrorism and Cabin Defense Act of 2002''.

SEC. ___2. FINDINGS.

Congress makes the following findings:

(1) Terrorist hijackers represent a profound threat to the American people.

(2) According to the Federal Aviation Administration, between 33,000 and 35,000 commercial flights occur every day in the United States.

(3) The Aviation and Transportation Security Act (Public Law 107–71) mandated that air marshals be on all high risk flights such as those targeted on September 11, 2001.

(4) Without air marshals, pilots and flight attendants are a passenger's first line of defense against terrorists.

(5) A comprehensive and strong terrorism prevention program is needed to defend the Nation's skies against acts of criminal violence and air piracy. Such a program should include—

(A) armed Federal air marshals;

(B) other Federal agents;

(C) reinforced cockpit doors;

(D) properly-trained armed pilots;

(E) flight attendants trained in self-defense and terrorism prevention; and

(F) electronic communications devices, such as real-time video monitoring and hands-free wireless communications devices to permit pilots to monitor activities in the cabin.

SEC. ___3. FEDERAL FLIGHT DECK OFFICER PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

''§ 44921. Federal flight deck officer program

''(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security shall establish a program to deputize qualified pilots of commercial cargo or passenger aircraft who volunteer for the program as Federal law enforcement officers to defend the flight decks of commercial aircraft of air carriers engaged in air transportation or intrastate air transportation against acts of criminal violence or air piracy. Such officers shall be known as 'Federal flight deck officers'. The program shall be administered in connection with the Federal air marshal program.

''(b) QUALIFIED PILOT.—Under the program described in subsection (a), a qualified pilot is a pilot of an aircraft engaged in air transportation or intrastate air transportation who—

''(1) is employed by an air carrier;

''(2) has demonstrated fitness to be a Federal flight deck officer in accordance with regulations promulgated pursuant to this title; and

''(3) has been the subject of an employment investigation (including a criminal history record check) under section 44936(a)(1).

''(c) TRAINING, SUPERVISION, AND EQUIPMENT.—The Under Secretary of Transportation for Security shall provide or make arrangements for training, supervision, and equipment necessary for a qualified pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot. Such training, qualifications, curriculum, and equipment shall be consistent with and equivalent to those required of federal law enforcement officers and shall include periodic re-qualification as determined by the Under Secretary. The Under Secretary may approve private training programs which meet the Under Secretary's specifications and guidelines. Air carriers shall make accommodations to facilitate the training of their pilots as Federal flight deck officers and shall facilitate Federal flight deck officers in the conduct of their duties under this program.

''(d) DEPUTIZATION.—

''(1) IN GENERAL.—The Under Secretary of Transportation for Security shall train and deputize, as a Federal flight deck officer under this section, any qualified pilot who submits to the Under Secretary a request to be such an officer.

''(2) INITIAL DEPUTIZATION.—Not later than 120 days after the date of enactment of this section, the Under Secretary shall deputize not fewer than 500 qualified pilots who are former military or law enforcement personnel as Federal flight deck officers under this section.

''(3) FULL IMPLEMENTATION.—Not later than 24 months after the date of enactment of this section, the Under Secretary shall deputize any qualified pilot as a Federal flight deck officer under this section.

''(e) COMPENSATION.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer.

''(f) AUTHORITY TO CARRY FIREARMS.—The Under Secretary of Transportation for Security shall authorize a Federal flight deck officer under this section to carry a firearm to

defend the flight deck of a commercial passenger or cargo aircraft while engaged in providing air transportation or intrastate air transportation. No air carrier may prohibit a Federal flight deck officer from carrying a firearm in accordance with the provisions of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002.

''(g) AUTHORITY TO USE FORCE.—Notwithstanding section 44903(d), a Federal flight deck officer may use force (including lethal force) against an individual in the defense of a commercial aircraft in air transportation or intrastate air transportation if the officer reasonably believes that the security of the aircraft is at risk.

''(h) LIMITATION ON LIABILITY.—

''(1) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the air carrier employing a pilot of an aircraft who is a Federal flight deck officer under this section or out of the acts or omissions of the pilot in defending an aircraft of the air carrier against acts of criminal violence or air piracy.

''(2) LIABILITY OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

''(3) EMPLOYEE STATUS OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall be considered an 'employee of the Government while acting within the scope of his office or employment' with respect to any act or omission of the officer in defending an aircraft against acts of criminal violence or air piracy, for purposes of sections 1346(b), 2401(b), and 2671 through 2680 of title 28 United States Code.

''(i) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Under Secretary of Transportation for Security, in consultation with the Firearms Training Unit of the Federal Bureau of Investigation, shall issue regulations to carry out this section.

''(j) PILOT DEFINED.—In this section, the term 'pilot' means an individual who is responsible for the operation of an aircraft, and includes a co-pilot or other member of the flight deck crew.''.

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for such chapter 449 is amended by inserting after the item relating to section 44920 the following new item:

''44921. Federal flight deck officer program.''.

(2) EMPLOYMENT INVESTIGATIONS.—Section 44936(a)(1)(B) is amended—

(A) by aligning clause (iii) with clause (ii);

(B) by striking ''and'' at the end of clause (iii);

(C) by striking the period at the end of clause (iv) and inserting ''; and''; and

(D) by adding at the end the following:

''(v) qualified pilots who are deputized as Federal flight deck officers under section 44921.''.

(3) FLIGHT DECK SECURITY.—Section 128 of the Aviation and Transportation Security Act (49 U.S.C. 44903 note) is repealed.

SEC. ___4. CABIN SECURITY.

(a) TECHNICAL AMENDMENTS.—Section 44903, of title 49, United States Code, is amended—

(1) by redesignating subsection (h) (relating to authority to arm flight deck crew with less-than-lethal weapons, as added by section 126(b) of Public Law 107–71) as subsection (j); and

(2) by redesignating subsection (h) (relating to limitation on liability for acts to thwart criminal violence or aircraft piracy, as added by section 144 of public law 107–71) as subsection (k).

(b) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—Section 44918 of title 49, United States Code, is amended—

(1) by striking subsection (a) and inserting the following new subsection:

''(a) IN GENERAL.—

''(1) REQUIREMENT FOR AIR CARRIERS.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security, shall prescribe detailed requirements for an air carrier cabin crew training program, and for the instructors of that program as described in subsection (b) to prepare crew members for potential threat conditions. In developing the requirements, the Under Secretary shall consult with appropriate law enforcement personnel who have expertise in self-defense training, security experts, and terrorism experts, and representatives of air carriers and labor organizations representing individuals employed in commercial aviation.

''(2) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security shall establish an Aviation Crew Self-Defense Division within the Transportation Security Administration. The Division shall develop and administer the implementation of the requirements described in this section. The Under Secretary shall appoint a Director of the Aviation Crew Self-Defense Division who shall be the head of the Division. The Director shall report to the Under Secretary. In the selection of the Director, the Under Secretary shall solicit recommendations from law enforcement, air carriers, and labor organizations representing individuals employed in commercial aviation. The Director shall have a background in self-defense training, including military or law enforcement training with an emphasis in teaching self-defense and the appropriate use force. Regional training supervisors shall be under the control of the Director and shall have appropriate training and experience in teaching self-defense and the appropriate use of force.'';

(2) by striking subsection (b), and inserting the following new subsection:

''(b) PROGRAM ELEMENTS.—

''(1) IN GENERAL.—The requirements prescribed under subsection (a) shall include, at a minimum, 28 hours of self-defense training that incorporates classroom and situational training that contains the following elements:

''(A) Determination of the seriousness of any occurrence.

''(B) Crew communication and coordination.

''(C) Appropriate responses to defend oneself, including a minimum of 16 hours of hands-on training, with reasonable and effective requirements on time allotment over a 4 week period, in the following levels of self-defense:

''(i) awareness, deterrence, and avoidance;

''(ii) verbalization;

''(iii) empty hand control;

''(iv) intermediate weapons and self-defense techniques; and

''(v) deadly force.

''(D) Use of protective devices assigned to crewmembers (to the extent such devices are approved by the Administrator or Under Secretary).

''(E) Psychology of terrorists to cope with hijacker behavior and passenger responses.

''(F) Live situational simulation joint training exercises regarding various threat conditions, including all of the elements required by this section.

''(G) Flight deck procedures or aircraft maneuvers to defend the aircraft.

''(2) PROGRAM ELEMENTS FOR INSTRUCTORS.—The requirements prescribed under subsection (a) shall contain program elements for instructors that include, at a minimum, the following:

''(A) A certification program for the instructors who will provide the training described in paragraph (1).

''(B) A requirement that no training session shall have fewer than 1 instructor for every 12 students.

''(C) A requirement that air carriers provide certain instructor information, including names and qualifications, to the Aviation Crew Member Self-Defense Division within 30 days after receiving the requirements described in subsection (a).

''(D) Training course curriculum lesson plans and performance objectives to be used by instructors.

''(E) Written training bulletins to reinforce course lessons and provide necessary progressive updates to instructors.

''(3) RECURRENT TRAINING.—Each air carrier shall provide the training under the program every 6 months after the completion of the initial training.

''(4) INITIAL TRAINING.—Air carriers shall provide the initial training under the program within 24 months of the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002.

''(5) COMMUNICATION DEVICES.—The requirements described in subsection (a) shall include a provision mandating that air carriers provide flight and cabin crew with a discreet, hands-free, wireless method of communicating with the flight deck.

''(6) REAL-TIME VIDEO MONITORING.—The requirements described in subsection (a) shall include a program to provide flight deck crews with real-time video surveillance of the cabins of commercial airline flights. In developing this program, the Under Secretary shall consider—

''(A) maximizing the security of the flight deck;

''(B) enhancing the safety of the flight deck crew;

''(C) protecting the safety of the passengers and crew;

''(D) preventing acts of criminal violence or air piracy;

''(E) the cost of the program;

''(F) privacy concerns; and

''(G) the feasibility of installing such a device in the flight deck.''; and

(3) by adding at the end the following new subsections:

''(f) RULEMAKING AUTHORITY.—Notwithstanding subsection (j) (relating to authority to arm flight deck crew with less than-lethal weapons) of section 44903, of this title, within 180 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security, in consultation with persons described in subsection (a)(1), shall prescribe regulations requiring air carriers to—

''(1) provide adequate training in the proper conduct of a cabin search and allow adequate duty time to perform such a search; and

''(2) conduct a preflight security briefing with flight deck and cabin crew and, when available, Federal air marshals or other authorized law enforcement officials.

''(g) LIMITATION ON LIABILITY.—

''(1) AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the

acts or omissions of the air carrier's training instructors or cabin crew using reasonable and necessary force in defending an aircraft of the air carrier against acts of criminal violence or air piracy.

''(2) TRAINING INSTRUCTORS AND CABIN CREW.—An air carrier's training instructors or cabin crew shall not be liable for damages in any action brought in a Federal or State court arising out of an act or omission of a training instructor or a member of the cabin crew regarding the defense of an aircraft against acts of criminal violence or air piracy unless the crew member is guilty of gross negligence or willful misconduct.''.

(c) NONLETHAL WEAPONS FOR FLIGHT ATTENDANTS.—

(1) STUDY.—The Under Secretary of Transportation for Security shall conduct a study to determine whether possession of a nonlethal weapon by a member of an air carrier's cabin crew would aid the flight deck crew in combating air piracy and criminal violence on commercial airlines.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Under Secretary of Transportation for Security shall prepare and submit to Congress a report on the study conducted under paragraph (1).

The provisions of this amendment shall take effect one day after date of enactment.

Mrs. BOXER. Mr. President, for the benefit of Members, I know Senator REID has been working hard to move things along. We have reached agreement on modifying our amendment, making sure that the pilot training is strengthened. I think we have done that with the help of Senator FEINSTEIN. I am very pleased that she was over here earlier to assist us with this amendment. I think she would be pleased with what we have done.

Basically, it is the amendment that Senator SMITH wrote in the form of a bill, and I was very glad to come on board after we wrote a few more bits and pieces about putting video cameras in the cockpits, and some other small items.

I thank my colleague from New Hampshire for his vision and tenacity in making sure that what happened on September 11 will not happen again.

Now we say, is there any one thing we can do can to ensure this will never happen? Of course not. Life is too complicated for that. As someone who has been a leader in the effort for sensible gun control laws, what we are doing in this amendment is very carefully thought out. It is backed by the Air Line Pilots Association International, and it is backed by the flight attendants.

I ask unanimous consent that a letter I just received from the Air Line Pilots Association be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AIR LINE PILOTS ASSOCIATION,
INTERNATIONAL,
Washington, DC, September 5, 2002.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: On behalf of the 67,000 members of the Air Line Pilots Association, International, I want to offer our thanks and support for your amendment to the pending homeland security legislation. The Boxer-Smith amendment creates a program allowing volunteer pilots who meet strict federal qualification standards to receive training to become federal flight deck officers, authorized to defend the cockpit against acts of criminal violence and air piracy.

Our nation has suffered greatly as a result of the events of September 11. More than 3,000 people were murdered, billions of dollars of property damage was incurred, the nation's economy was rocked, thousands of people were laid off and life in America will never be the same again—all because terrorists were able to kill eight pilots and take over the cockpits of their airliners on that day.

This must never happen again. Providing more armed federal air marshals and enhanced cockpit doors will help. However, not all flights will have the protection of air marshals and new, more secure cockpit doors will not be installed overnight. As an absolute last line of defense our government has authorized U.S. jet fighters to shoot down an airliner if hijackers gain control of it. To authorize such an action, without empowering pilots to defend the cockpit against hijackers, is both illogical and unacceptable.

We are confident that the program, created by your legislation, would not only add a genuine security enhancement in the very near term, but also give passengers and crews the added confidence that their government had provided all possible resources needed to defend against a terrorist hijacking.

The scrutiny and training our members undergo during their preparation for a career as professional airline pilots, we believe, provides a ready-made pool of individuals who would be well-equipped to participate in such a voluntary program: highly educated, physically and mentally fit men and women who are conditioned to react calmly and deliberately in a crisis.

In this period of attempting to find money for security initiatives that will have the most immediate and direct impact on preventing another terrorist attack, we believe that this legislation provides the most practical program for cockpit defense.

Thank you again for all your efforts on this important issue of safety and security.

Sincerely,

DUANE E. WOERTH,
President.

Mrs. BOXER. Mr. President, I think this letter from the pilots comes from the heart. When we think back to that terrible day, we know exactly what happened. The flight attendants were trained never to interfere if someone wanted to hijack a plane. The pilots were trained to go along. Do you know, according to the flight attendants that Senator SMITH and Senator BURNS and I met with today, they haven't had one bit of new training since 9/11, almost a year ago?

They are desperate for this legislation, which includes very important training for the flight attendants, to be repeated every 6 months at no new costs. As one flight attendant said, ''I don't need more training in how to make a napkin look better on a tray; I want to know how to defend myself in the cabin.''

In this bill, no one is authorized to carry a gun. It doesn't do that. All it says is that if a pilot feels that he or she wants to get this very extensive training—and we have strengthened it with the Feinstein language—and be qualified to defend the plane, as a last resort, if someone does break through the doors, under this amendment, they will have video cameras in the cockpit, which is what I wanted so much. That is kind of a rear-view mirror. And Senator SMITH put in wireless communication so that the flight attendants can talk to the pilots in an unobtrusive fashion.

This is a package that will make our skies safer. I am not going to talk long because I know Senator SMITH, who started the ball rolling on this, is anxious to speak, Senator HOLLINGS has some remarks, and people want to vote. So in the next 4, 5 minutes, I will lay out the rest of my argument.

Why do we need this bill, which will have this voluntary program of arming pilots who would have to go through a rigorous course and get qualified repeatedly and have the psychological profiles and everything else that we would expect to have happen?

Why do we need that? Why do we need to have the flight attendants' training? Mr. President, if I could stand before you and assure you that I believe the skies are safe, I would not be here supporting this bill, but I cannot tell you that, sadly. I join with my chairman. He has been a leader in safety, and we well know what has happened.

Just yesterday we learned that reporters from a New York newspaper went through screening processes in 11 airports with box cutters, razor blades, knives, and pepper spray. What happened? Each and every one got past security at those 11 airports, even airports from which planes involved in the disaster of 9/11 originated.

On July 1, we found out that the TSA, the Transportation Security Administration, itself conducted a random test, and they found that in many airports there was a 40-percent failure rate of finding the contraband, finding the weapons. Sadly for me, two of those airports that did the worst were in my State, Sacramento and Los Angeles.

Add to this we do not have enough air marshals. I cannot say how many we have. That is a classified item. But the American people need to know that we wrote the bill, and with the help of my chairman and his ranking member, we wrote the part of the bill that deals with putting air marshals on all the high-risk flights, the long-haul flights. I am here to say today unequivocally that we are way behind.

On some of the airlines—very few—they have not strengthened the doors. Guess what, Mr. President. As my chairman has repeatedly said, they are open during the flight. I am on flights constantly, all across the country and in between, and I see the pilot come out of that door. Guess what they do. Sometimes they have a cart in front of the door to protect against the cockpit

being taken over—a cart as a defense. Sometimes they will just have one or two flight attendants. Sometimes they will not even do anything; they just ask the passengers to stay away from the door.

To sum up, failure is what happens at those screening points. The same weapons that caused the tragedy of 9/11 are getting through. We do not have enough air marshals. The flight attendants have not had one bit of new training on what to do. The pilots want to have something at their disposal to save the aircraft. And on top of that, the U.S. military has issued orders to shoot down a commercial aircraft that is under the control of hijackers. Imagine that. Imagine if that happened and we knew we had not taken action at least to give our pilots a chance.

When I cosponsored this bill, people were really surprised because they said: BARBARA BOXER is a leading advocate of gun control laws and making sure guns stay out of the hands of criminals; she is strong; she is on the floor. This is not about guns in the hands of criminals. This is about a trained pilot who volunteers, most of whom have training in the military, and they will have rigorous training under this bill.

I do not know how we can, in the name of the victims of 9/11, not pass this bill today. I trust that we will do it.

Today, one of the flight attendants I met is the mother of Mark Bingham, who was one of the passengers on flight 93 who fought so hard against the hijackers.

God knows what they saw before they went into that cockpit. God knows what was done to the flight attendants who were told in their training to do nothing. God knows what they did to the pilots. God knows. Believe me, this wonderful woman talked today, and she could only speculate what it was like for her son and the others. When the son called, he would not go into any detail because, she said, he wanted to spare her that.

Today we have a chance. This is the homeland security bill. What better way than to make a statement today that we are going to do everything in our power to ensure that at least the flight attendants are trained in self-defense, that the pilots have the tools they need, including a video camera, the training they need, wireless communications with the aircraft. If we do this, we will be doing a very good thing for the people of this country, for the traveling public of this country.

I would like, at this time, to give an opportunity to Senator SMITH to speak. I see he is away from the floor. I am going to yield the floor and say about Senator SMITH's effort that he has really been the hero of this bill. He has worked hard with me to modify it in such a way so that I am proud to be on it. He has kept the coalition together. He has worked across the aisle and within his own party, and I think he and I are going to have a victory today. I certainly hope we will.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, Senator SMITH had to leave the floor for a moment, so if I may speak.

The PRESIDING OFFICER. The Senator is recognized.

Mr. THOMAS. Mr. President, I believe this is an important amendment, one I find great support for in the country. I believe it makes sense to arm qualified airline pilots, to add another layer of protection to our existing aviation security system. That is what we are seeking to do.

We have had increased security, of course—increased screening requirements, fortified cockpit doors, increased numbers of sky marshals—since September 11. We must continue to do more and do all that we can.

I recently wrote an op-ed in the Denver Post, as well as in a Wyoming paper, that indicated some 80 percent of American people, according to the polling, support this idea. This amendment mirrors the legislation introduced in both Houses of Congress and now passed by an overwhelming majority in the House to allow, but not require, carefully screened, properly trained and equipped airline pilots to be commissioned as Federal law enforcement officers and to carry firearms on the flight deck for defense.

The U.S. Department of Transportation, which has had a change of position, proposed a limited arms pilot program, but the Smith amendment would be even stronger. The Smith amendment would prevent airlines from opting out of the program to avoid a situation where misguided liability concerns block pilots from volunteering.

The Smith amendment would prevent airlines from discriminating against pilots who choose to participate.

The Smith amendment would provide liability protection both for the airlines and for lawful actions of armed pilots preventing a terrorism tragedy turning into a feeding frenzy for the trial bar.

Unfortunately, opponents of arming the pilots have fostered misplaced fears of the issue. Here are some of the facts.

Pilots would use firearms only in the defense of aircraft after hijackers breached the cockpit door. No man-made door is impenetrable to determined attackers, of course.

According to the May 2 House subcommittee testimony from Boeing's director of aviation safety, commercial planes are extremely unlikely to suffer catastrophic failure due to firearms on board. Aircraft are designed with sufficient strength, redundancy, and damage resistance that even single or multiple handgun bullets would not create holes that would result in the loss of the aircraft.

Even the worst possible mishap that could be brought about by an armed pilot is certainly not comparable to the alternatives. A plane destroyed by a missile fired from a U.S. fighter plane or that crashes into a ground target is simply not an acceptable outcome when there is a chance of preventing it by allowing federally commissioned, trained, screened, and volunteer pilots the means of mounting a last-ditch effort against terrorists and hijackers.

I certainly hope we can support this important amendment and make our skies even safer for Americans to travel. I urge my friends to vote yes on the Smith amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. While we are awaiting the arrival of Senator SMITH, I thought I would give some more details about the bill.

I see Senator SMITH is in the Chamber, so at this point I am very happy he has come back. I know he had to attend a quick meeting. I say to Senator SMITH, if we can get a vote this afternoon, it will be good for us.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. While the Senator from California is still in the Chamber, let me thank her in a big way for the wonderful cooperation she has given us as we have worked together to bring this amendment to the floor, but also, more importantly, to bring the flight attendants and the pilots together in this effort and to have legislation that is going to help them as we get through this terrible ordeal.

This has been a long, arduous effort since 9/11. I know the Senator has worked with various groups, as I have. Right after 9/11 we started to meet with pilots and flight attendants to hear from them as to what it was they believed they needed.

It became very clear, as the Senator from California has said, that the flight attendants were not properly trained and believed they needed that training. They were the first to die, we believe, in those aircraft. Not only that, the pilots themselves had absolutely no defense against these terrorist attacks.

In listening to the families, the flight attendants, and the pilots, we were able to piece together, work through, and develop legislation which I hope the Senate will pass this afternoon.

This amendment will train and arm commercial pilots with a firearm to defend the cockpit of our Nation's commercial aircraft from acts of terrorism. It also provides for increased training for flight attendants and communications devices for pilots and flight attendants to have the latest communications and video monitoring devices.

It is a terrible comment on our times that this kind of effort has to be put forth, but that is the world we live in, where people who are determined to kill us have no qualms about killing themselves. What happens, as we all

know, is that these aircraft become weapons of mass destruction. They become bombs, in essence.

As the Senator from California said, the option of not having guns in the cockpits or trained crews is having guns in the cockpits or, as a last line of defense, F–16s which will shoot down commercial aircraft with Americans on board, a terrible scenario to have happen, basically making the decision to take fewer lives to avoid killing more people because of what might happen on the ground. It is a terrible scenario we do not want to see happen.

I am not sure we can guarantee 100 percent it will never happen, but we can cut the odds with this legislation. That is why I am so excited about its passage. Hopefully, when it goes to conference with the House—the House bill is very similar but not quite where we need it to be—we can conference this and the President will sign it.

I was astonished to hear the flight attendants this morning in the press conference. They were very emotional and very articulate, I might add, in talking about the training they did not have, and they have not had any additional training since the 9/11 incident. I believe we have to give our Nation's pilots and flight attendants a fighting chance against these terrorists before our Government has to resort to shooting down an airplane and by all odds keeping the terrorists from getting into that cockpit. The cabin would be the first place the terrorists would be. At least with trained flight attendants, they can perhaps incapacitate the person or at least slow the person down. If that person gets to the cockpit with a lethal weapon, a properly trained pilot will stop that person before that person gets into the cockpit and causes the plane to lose control.

We have met some wonderful people. I was taken aback this morning in the meeting with Alice Hogan. She is the mother of Mark Bingaman who lost his life on flight 93, one of the many heroes on that aircraft. It is very emotional to see these people coming to Washington and talking with us and asking us to help. They should not have to ask, but they are here, they are articulate, and they are emotional. They want help. They deserve help. We do not want any more flight 93s or flight 175s.

A few weeks ago, I met Ellen Saracini whose husband Vic was the pilot of the aircraft that went into Tower 2. Ironically, she told us, she had had a conversation with her husband not too long before September 11 in which he indicated to her he wished they had better security on the aircraft, better training for flight attendants, maybe guns in the cockpit, some lethal way to stop a potential terrorist; that they did not feel comfortable with this philosophy of being a pacifist when it happens, do not make any waves and everything will be fine; the terrorist will land the aircraft somewhere.

That world is gone. We are not there anymore. I remember a reporter asking Ellen, ''Do you think your husband would have survived this incident if he had had a gun in the cockpit or a trained crew?'' And she said, ''I do not know how it could have been any worse than what happened.'' I certainly concur with that.

There are a lot of things we can say. I want to speak from the heart about this. We hear a lot about cost: How much is it going to cost to train the flight attendants? How much is it going to cost to train the pilots? How do you even estimate the cost of human life that happened in New York or at the Pentagon? We cannot put a cost on that.

This is an emotional time for all of us. We are on the eve of the anniversary of 9/11, and what a great tribute it would be to pass this legislation now so we can try to see it does not happen again. The cost is not that bad, frankly. If an air marshal had to be put on every single flight in America—I do not know what it is, 30,000 flights a day or whatever it is—the costs would be prohibitive. So this way, the pilots are armed and the flight attendants are trained. The odds are dramatically reduced.

Down the road perhaps, with better reinforced cockpits, maybe things will improve. Right now, we need this legislation, and we need it badly. I hope the Senate will pass it this afternoon and that it will go to the President's desk very shortly.

One other thing I want to mention, because it has been talked about: I have not heard anything official, but there has been some rumor there may be an effort to go with a test program, or a pilot program—no pun intended—where guns would be put in the cockpit on 2 or 3 percent of the planes, maybe train the flight attendants, maybe not. We need those flight attendants trained. This is not where we need to be. This is not going to get the job done.

If someone is a passenger on an airplane, they might want to know whether this is one of the 2 or 3 percent where the pilots are armed. I know I would want to ask. Ninety-seven percent of the planes are not going to have these so-called test provisions.

I am thinking, what are we testing for? It is not a good idea. The House started out with this, and they left it a long time ago and moved our way on the legislation. What is so ludicrous about this is, let's say we implement a test program for 5 years. Three percent of the aircraft have trained pilots and are carrying arms, and nothing happens for 5 years—and we would hope it would not—what does that mean? We are going to wait until something happens with the other 97 percent? And when something happens, we will increase it to 15 or 20 percent? It is illogical. We need this bill to pass now. Armed pilots. The pilots want it. The flight attendants want it. The American people want it. I hope the majority of the Senate wants it, as the majority of the House.

Mrs. BOXER. Will the Senator yield?

Mr. SMITH of New Hampshire. I yield.

Mrs. BOXER. Senator SMITH has been eloquent and his leadership has been stalwart.

I very much worry that some kind of test program is going to be put forward by the administration, as opposed to what we are doing. I ask my friend if he does not agree. We already know there are huge failure rates at the screening points. TSA said in some airports it was 40 percent; in some it was 30 percent; and in some it was 20 percent.

That means when the New York Daily News sent out reporters, and they came back after Labor Day and said they snuck on box cutters, pepper spray, knives, razor blades, all without detection, we already know, God forbid, we could theoretically and practically have another incident.

Since we already know about that failure rate, and since we already know the military will shoot down commercial aircraft they decide is under control of hijackers, and since we know that the doors are not yet secure, and that in many cases they are open and the pilots come out or the flight attendants go in and they are guarded by a cart, don't we have enough information to move forward with this bill right now with this amendment?

Mr. SMITH of New Hampshire. I absolutely agree with the Senator. We do; we have more than enough information. I certainly do not think it is worth having a test program to wait and hope that something else does not happen again. We need to cut the odds dramatically. I don't know if it can be 100 percent, but we certainly can cut the odds dramatically. We need to restore the confidence of the American people to fly again.

The stories just related are incredible—.357 magnums getting on aircraft. Another thing which has not been focused on, terrorists do not necessarily have to have something we can determine as a weapon; they have bare hands. They have been trained to murder. They have gone through the Bin Laden terrorist camps. They are experts in martial arts. They can kill with their hands. Some small weapon could be helpful to a terrorist, but they could kill with their bare hands.

They have to be stopped. The best way, of course, is to keep them off the planes. In the event they get on the plane, this is the last line of deterrence and defense. I am hopeful the Senate will realize this. I know it has been a long process. The House has had hearings. They marked a bill, 310 to 113, on July 10. Today we are considering essentially similar legislation—not exactly the same.

The Allied Pilots Association, the Airline Pilots' Security Alliance, Airline Pilots Association, Coalition of Airline Pilots Association, Southwest Airlines Pilots Association, Association of Flight Attendants: all of these

groups have not only supported this amendment but have worked very hard and talked to Members of Congress in a very informative, instructive, positive way, pleading with Congress to help them defend the people on those aircraft and the people on the ground.

I have several items to print, including one from the pilots to President Bush, an editorial by Richard Cohen, and an editorial by George Will, and I ask unanimous consent these documents be printed in the RECORD.

APRIL 3, 2002.

Hon. GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: As representatives of the largest airline pilot organizations in this country, we would like your assistance in the immediate development and implementation of a program to defend the American traveling public with voluntarily armed pilots.

Public opinion polls and those within our own pilot groups indicate overwhelming support for arming flight deck crewmembers with lethal weapons. Nothing short of lethal force can stop lethal intent to hijack and destroy our aircraft and murder all on board. Yet the volunteer pilot arming provisions of the Aviation and Transportation Security Act of 2001 that you signed into law on November 19, 2001, are being ignored.

To remedy this situation, we ask for your assistance in implementing a flight deck protection program that has the following characteristics: All volunteer pilots must be carefully screened, successfully trained and subsequently designated by a federal law enforcement agency such as the FBI or TSA; pilots so selected, screened and trained should be deputized or have the same indemnification and protections afforded other law enforcement officers in the employ of the U.S. government; pilots must be certificated in weapons handling, use of lethal force, carriage policy and procedure, rules of engagement in all environments, recurrent training, tort law, and other subjects deemed necessary by the governing authority; choice of weapons and ammunition will be mandated by the responsible federal agency; and certified pilots will draw their weapons only for use in direct defense of the flight deck in accordance with program ''use of force'' rules.

If the unthinkable happens again, there must be a means provided for our flight crews to defeat any hijacker who breaches the flight deck with a weapon and attempts to destroy the aircraft. Otherwise, a U.S. fighter may be ordered to shoot down a commercial airliner full of innocent passengers. America's pilots must have lethal weapons as a last line of defense against well-coordinated, highly trained teams of terrorists.

Each of our pilot groups has independently assessed and recommended the best way to implement a plan to arm our flight crews. Each has drawn similar conclusions closely paralleling a proposed training program developed by the FBI at the request of the Department of Justice. We have forwarded our specific recommendations through the comment process requested by the Federal Aviation Administration, and stand ready to immediately assist your administration in the establishment of such a program.

Sincerely,

CAPTAIN DUANE WOERTH,
President, Air Line Pilots Association.
CAPTAIN TRACY PRICE,
President, Airline Pilot Security Alliance.
CAPTAIN JON WEAKS,
President, Southwest Airlines Pilots' Association.
CAPTIN JOHN E. DARRAH,
President, Allied Pilots Association.
CAPTAIN BOB MILLER,
President, Coalition of Airline Pilots Associations.

[From the Washington Post, June 4, 2002]

GUNS . . .

(By Richard Cohen)

Careful readers of this column will remember when, some years back, I was burglarized. It was the middle of the night, sometime around 3 a.m., when I heard a noise—the back door being forced open. I awoke with a start, tried to quiet my thumping heart, rushed to the head of the stairs and heard someone running around the floor below. At that moment, what I wanted more than anything in the world was a gun.

What I wanted at that moment—and only that moment, I hasten to add—was denied last month to airline pilots who just might have to deal with a terrorist somehow getting into the cockpit. That this decision was made by the pro-gun Bush administration only deepens the mystery. If I were a pilot, I would want a gun in the cockpit. And in every survey, most pilots say they do.

The gun I would want would not be carried on my person. It would not be on me when I went to the bathroom or left the cockpit for any reason. It would be in a secure location, accessible only to someone who knew a code, and while it might be loaded with bullets that could stop a man but not penetrate the fuselage, even conventional ammo does not present an unacceptable risk. Planes don't deflate like balloons from one or two bullet holes. And, anyway, air marshals and other law enforcement officers already fly not only armed but with conventional ammo.

This gun would be used only as a last resort to stop a terrorist from gaining control of the plane. It's probably not too much to say that if pilots had had weapons on Sept. 11, the attacks might have been averted. A man with a box cutter is no match for a man with a gun.

The union that represents the pilots, the 62,000-member Air Line Pilots Association, favors having a weapon in the cockpit. Not all pilots agree, of course. Some of them feel that arming pilots would distract from the real job at hand—making the cockpit as secure as possible as quickly as possible. This includes, among other things, bulletproof cockpit doors that can't be broken down. It also includes beefing up the air marshal program. After all, El Al Israel's national airline, does not arm its pilots and has not had a hijacking since 1968. It uses sky marshals.

But El Al has only 34 airplanes. The United States has more 20,000 flights a day. It will be a long time, if ever, before there's a sky marshal on every flight. That cannot, of course, be said for pilots. Every flight has at least one.

Back in 1995, when he was governor of Texas, George W. Bush signed a bill giving Texans the right to carry a concealed weapon. The bill insisted only that the gun-toters be at least 21, pass a criminal background check and have no history of mental illness. I can only hope that pilots already meet those criteria.

If that's the case, then why is it somehow logical to allow every Tom, Dick and Harry to pack some heat but to forbid that same right to airline pilots, who, I may point out, often are ex-military people? Regardless, they would all be trained in the use of the gun, and their first duty, always, would be to fly the plane—no matter what. Only if a terrorist somehow managed to gain access to the cockpit would the pilot use the weapon. Could even a stray shot be worse than a commandeered plane on a terrorist mission?

I am, like all reasonable people, in favor of the tightest restrictions on guns. I fear the things, since they are easily concealed and lethal. The more there are, the more chances they will fall into the wrong hands. That is precisely what I feared the night I was burglarized—not that the burglar had a knife (I had scissors), but a gun.

But even in my most anti-NRA moods, I want the cops to be armed, since, among other things, just be being so, they deter crime. Armed pilots would also be a deterrent. A terrorist would not be dealing with the chance that an air marshal is aboard but the certainty that, in the cockpit, it is gun and a person—cool enough to be an airline pilot—who is cool enough to use it. Just one night in my life, I wanted a gun. On just one flight, a pilot might feel the same way.

[From the Washington Post, June 6, 2002]

ARMED (AND TRUSTED)

(By George F. Will)

The next perpetrators of terrorism in America probably are already here, perhaps planning more hijackings. Post Sept. 11 airport security measures may have made hijackings slightly more difficult, but the fact that these are America's most visible anti-terrorist measures vastly increases the terrorists' payoff in proving the measures incapable of keeping terrorists off airplanes.

Recently this column presented, without endorsement, the views of three commercial airline pilots who oppose guns in cockpits. Today's column presents, and endorses, the views of three other commercial airline pilots—two trained as fighter pilots, one civilian-trained—who refute the other pilots' principal contentions, which were:

Proper policy regarding suicidal, hijackers is to land as quickly as possible, which can be as quick as 10 minutes. So priority should be given to making cockpits impenetrable. Armed pilots might be tempted to imprudent bravery—particularly ''renegade'' pilots with fighter-pilot mentalities, who would leave the cockpit to battle terrorists in the main cabin. And arming pilots serves the pilots' union objective of requiring a third pilot in each cockpit.

The three pilots who favor allowing pilots to choose whether to carry guns respond:

Passengers already entrust their lives to pilot's judgments. Landing a hijacked plan is indeed the first priority, but pilots need to be alive to do that. A cockpit impenetrably sealed from terrorists is an impossibility, in part because planes cannot be landed as quickly as the other three pilots say. An ignoble fear—of lawyers, of liability—explains why the airlines oppose arming pilots. But legislation could immunize airlines from liability resulting from harms suffered by passengers as a result of pilots' resisting terrorists.

Landing a plane from 30,000 feet requires at least 20 minutes, never just 10. A training flight, simulating a fire emergency on a flight just 4,000 feet up and 15 miles from Philadelphia's airport, takes about 12 minutes to land when done perfectly. Transatlantic flights can be three hours from a suitable airport. Such airports are not abundant west of Iowa. Which means on most flights, terrorists would have time to penetrate the cockpit.

Bulletproof doors are not the answer: the Sept. 11 terrorists had no bullets. Well trained terrorists can blow even a much-reinforced cockpit door off its hinges using a thin thread of malleable explosive that can pass undetected through passenger screening

procedures when carried on a person rather than in luggage. Here is what else can be undetected by security screeners busy confiscating, grandmothers' knitting needles:

The knife with the six-inch serrated blade that a passenger found, in a post-Sept. 11 flight, secreted under her seat. Two semiautomatic pistols that recently passed unnoticed through metal detectors and were discovered only when the owner's bags were selected for a random search at the gate. A mostly plastic 22-caliber gun that looks like a cell phone. An entirely plastic and razor-sharp knife. A ''bloodsucker''—it looks like a fountain pen but has a cylindrical blade that can inflict a neck wound that will not stop bleeding.

The idea that arming pilots is a means of justifying a third pilot is derisory: Reengineering cockpits for that would be impossibly complex. Equally implausible is the idea that a Taser (electric stun gun) is a satisfactory aid when locked in a plane, seven miles up, with a team of trained terrorists.

A pilot's gun would never leave the cockpit because the pilot never would. And shooting a terrorist standing in the cockpit door frame would not require a sniper's skill. The powerful pressurization controls, as well as the location and redundancy of aircraft electronic, hydraulic and other systems, vastly reduce the probability that even multiple wayward gun shots—even of bullets that are not frangible—would cripple an aircraft.

About fear of ''fighter pilot mentality'': The military assiduously schools and screens pilot candidates to eliminate unstable or undisciplined candidates. Airlines, too, administer severe selection procedures for pilots, who are constantly scrutinized. Captains have two physical examinations a year (first officers, one) with psychological components. Everything said in the cockpit is recorded.

Besides, many passengers fly armed—county sheriffs, FBI and Secret Service agents, postal inspectors, foreign body-guards of foreign dignitaries. Why, then, must the people on whom all passengers' lives depend—pilots—be unarmed? Especially considering that the prudent law enforcement doctrine is that lethal force is warranted when menaced by more than one trained and armed opponent.

To thicken the layers of deterrence and security, in the air as well as on the ground, Congress should promptly enact legislation to empower pilots to choose to carry guns. Time flies. So do hijackers. And the next ones probably are already among us.

Mr. SMITH of New Hampshire. Mr. President, I reiterate:

This amendment trains and arms commercial pilots with a firearm to defend the cockpit of our Nation's commercial aircraft from acts of terrorism. The amendment also provides for increased training for flight attendants and communications devices for pilots and flight attendants to have the latest communications and video monitoring devices.

Today, there are no defensive capabilities our Nation's pilots. No firearms.

Only Federal air marshals, on a very small percentage of commercial flights, are armed to defend against terrorism.

When all else has failed to defend a commercial aircraft, the only option for the defense of the public from the use of a commercial aircraft as an instrument of mass terror is for the United States military to shoot down that commercial aircraft.

I firmly believe that we should give our Nation's pilots & flight attendants a fighting chance against terrorists before our Government resorts to shooting commercial aircraft out of the sky.

I am proud to have joined a bipartisan coalition including Senator ZELL MILLER, Senator CONRAD BURNS, Senator FRANK MURKOWSKI, and Senator BARBARA BOXER in introducing our bill, S. 2554, the ''Arming Pilots Against Terrorism and Cabin Defense Act of 2002.''

On July 21, 2001, the FAA limited the carriage of weapons of aircraft to certain law enforcement officers.

September 11, 2001—the worst terrorist attack in U.S. History. That attack could have been prevented if pilots were armed.

I was convinced of this fact by a wonderful and brave woman—Ellen Saracini of Pennsylvania.

Over one month ago, I spoke at a press conference with Ellen Saracini.

Ellen is the wife of the late Captain Vic Saracini.

Captain Victor Saracini was the pilot of United Flight 175 on its way from Boston to Los Angeles when it was commandeered on September 11 and crashed into the World Trade Center Tower 2.

Vic supported armed pilots before September 11th and Ellen has continued that support.

Our nation has suffered a great loss with the loss of the pilots, flight attendants and thousands of victims of September 11th.

I never ever want to see an event like September 11th happen again and I firmly believe that armed pilots will be an effective tool to prevent any future contemplated acts of terrorism.

What we learned from September 11th is that a military jet shooting down a commercial aircraft is not only possible, it is now commonly considered as a part of airline security.

We also recently learned that the military contemplated ramming commercial jets with military aircraft if they were hijacked weapons of mass destruction. On September 11th, I understand that the shooting down of commercial aircraft may have been necessary at the time. Today, there is no excuse not to arm pilots before we allow our military to shoot down commercial aircraft.

At the time it was the right decision, because the despicable acts of September 11th were unthinkable—not anymore.

Since September 11th, there have been some advancements in commercial airline security, yet, the most common sense legislation to train and arm commercial airline pilots, has yet to be implemented.

The Aviation and Transportation Security Act was approved and signed into law. This act authorizes air carrier pilots to carry a firearm in the cockpit if: (1) the Undersecretary for TSA approves; (2) the air carrier approves; (3) the firearm is approved; and, (4) the pilot has received proper training.

This law was passed as a result of my amendment in the Senate and a provision passed by the House. I was unhappy with the language, but I had the hope that the Department of Transportation would give adequate consideration to the issue of armed pilots.

The FAA published a request for comments on whether pilots should be allowed to be armed on December 31, 2001. By March 15, 2002, the FAA had received over 7,500 comments and according to the FAA's analysis, more than 96% of the comments favored armed pilots. As a result of the open comment period, the TSA decided to agree with the 4% of respondents who disapproved of armed pilots and ignored the comments of 96% of respondents.

This is a critical point in the debate today. Today, the Transportation Security Administration is authorized to start training pilots in the proper use of a firearm to defend the cockpit. One pilot said that the current inaction on the part of TSA and the Department of Transportation is a criminal act of negligence. Maybe this inaction is a political act of negligence that needs to be addressed by the Senate today.

On May 21, 2002, the former Under Secretary for Transportation Security, John Magaw, testified that he would not approve the arming of commercial pilots.

The House passed a strong armed pilots bill by an overwhelming margin—today the Senate finally considers an amendment to train and arm pilots.

The bottom line is that armed pilots are the first line of deterrence and last line of defense to terrorism.

First line of deterrence, because terrorists will never target American commercial aircraft again, if terrorists know that an armed pilot will end an attempted hijacking with deadly force.

Last line of defense, because an armed pilot is the last line of defense before an F–16 or other military aircraft shoots down a hijacked aircraft full of innocent civilians. It really is that simple.

Nonlethal weapons are a great supplement to a firearm—but it is not an alternative.

Our nation's air marshals are armed with a firearm. Maybe they should also be given a stun gun or a tazer, but nobody in this chamber would argue that our nation's air marshals should only have a stun gun. Tazers and stun guns are good to disable one or two terrorists, but a firearm is the best alternative to defend against a September 11th style attack.

The pilots and the flight attendants want safer travel. My understanding is that the Department of Transportation initially opposed arming pilots because of liability issues. Our amendment grants the airlines a limited liability shield to protect from aggressive trial lawyers. Our amendment will ensure

that the pilots and airlines are not held liable for actions taken to protect the lives of the crew and passengers from terrorist attack.

A commercial aircraft is not going to crash as a result of the discharge of a firearm on a commercial aircraft. On May 2, 2002, Ron Hinderberger of the Boeing Company testified before the House Committee on Transportation. Hinderberger said: ''The risk of loss of an aircraft due to a stray round from a hand gun is very slight.''

The cost of this program is not going to be too much to bear. The cost that I never want this nation to pay again—is another September 11 style attack on the United States of America. I am willing to work with the good members of the Senate to keep the cost of this program to a minimum. My office has consulted some private training facilities including Gunsight in Arizona and Blackwater Lodge in North Carolina. Both have assured my office that the cost would be minimal. Gunsight quotes the cost at about $2000 per pilot for initial training and about $700 per pilot for recurrent training.

The amendment contains findings that we inserted at the request of Senator BARBARA BOXER that a Federal air marshall should be on all high risk flights.

The amendment creates a Federal Flight Deck Officer Program to train and arm pilots.

Ninety days after the bill is passed the Undersecretary for Transportation shall establish a program to deputize qualified pilots who volunteer for the armed pilots program.

The bill grants pilots the authority to use force and provides a liability protection for pilots acting in scope of their duties as Federal Flight Deck Officers.

The amendment establishes the Aviation Crewmember Self-Defense Division within the TSA to train flight attendants to prepare them for terrorist and criminal threats.

Another provisions states that the air carriers shall provide flight and cabin crew with a discreet, hands free wireless method of communicating. The purpose of this device is to provide a method for the pilot to communicate with the flight attendant to understand if there is a threat to a commercial aircraft.

Also, another provision was added at the request of Senator BOXER to provide a real time and cost effective video monitoring device for the pilot to monitor the activities in the passenger's cabin. This gives a pilot a view of any possible threat to the pilot's cockpit without having to open the cockpit door.

Today it is an honor to be fighting on behalf of the pilots, flight attendants, commercial airline passengers, and the American people who support the idea of armed pilots and trained flight attendants on the floor of the United States Senate.

If my state of New Hampshire is any barometer of the popularity of Armed Pilots—the Congress would pass this amendment by Unanimous Consent right now.

The House of Representatives conducted hearings, marked up and passed an armed pilots bill by a margin of 310–113 on July 10th.

Today, the Senate is considering a similar armed pilots amendment and it is my hope and prayer that this amendment is passed by the anniversary of September 11th. One year is long enough for the American people to wait for this common sense and reasonable amendment to arm pilots and train flight attendants.

Also, I want to thank the Allied Pilots Association, the Airline Pilots' Security Alliance, the Air Lines Pilots Association, the Coalition of Airline Pilots Associations, the Southwest Airlines Pilots' Association and the Association of Flight Attendants for the leadership and hard work these groups have completed to help the Congress draft and pass an armed pilots and trained flight attendant's bill.

Yesterday, we learned that many different reporters investigating airport security were able to smuggle small knives and pepper spray through the checkpoints of 11 airports over Labor Day weekend.

These airports included Newark International, Logan Airport in Boston, Dulles Airport, O'Hare, LaGuardia and Kennedy, among others.

These are our largest and busiest airports, where security should be the tightest.

Anbd this report is certainly not the only instance where weapons have passed through security without detection.

But we have to assume that occasionally mistakes happen, even at our biggest and busiest airports.

Some sort of weapon could be smuggled aboard an airplane.

All it took on September 11th was a few box-cutter knives.

This recent example of screening insecurity is just another reason why airline pilots need to be armed.

Because they will provide the first line of deterrence and the last line of defense.

In other words, if terrorists know that the pilots have firearms, then they will be less likely to attempt a takeover.

But if the unthinkable happens and a terrorist gets through security with some sort of weapon and then tries to take over a plane, the plan is to start descending to land the plane immediately, and to use the firearm if the terrorists try to get into the cockpit.

The terrorists will not be able to get into the cockpit with armed pilots.

And the lives of passengers and the crew, as well as perhaps thousands of Americans on the ground, will be saved.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the distinguished Senator from New Hampshire is right. Pilots do work hard. I have commented to that effect on other occasions, and on other measures. Our problem is, looking at the Senate floor, we have two Senators, maybe three at the most. What really occurs is that we are addressing a ''fixed'' jury.

In other words, 35 years ago when I came to the Senate, we did not have the luxury of television. So if you wanted to know what was going on, you had to come over on the floor. Invariably, there were always 20 to 30 Republican Senators in their cloakroom, and 20 to 30 Democrats in their cloakroom. If an issue was raised, you could make a point and come right out on the floor. Or if you agreed with a particular Senator, you could thank him for his observation. In a sense, we would learn from each other.

We now have the TV everywhere. Incidentally, if you are watching it in your office and you find you want to raise a point, you come to the floor quickly; then you find out someone else has been waiting an hour, another Senator has been waiting a half hour, so your opportunity is totally missed. But the real point is, we do not listen to each other.

The pilots have worked—he is dead right, they have worked this bill. And to my surprise, it has come up this afternoon.

I have tried my very best to improve airline security since the terrorist attacks. As the chairman of the Commerce Committee, I got the best possible witnesses together, and we immediately passed out of the committee a bipartisan, unanimous airline security measure. We passed it out of the Senate 100 to 0.

While we had the view in the Senate that airline security should be within the Justice Department in order to compromise and get things done, we went along with the House and kept it in the Transportation Department which proved to be, of course, a mistake in that we wasted now 6 or 7 months in confirming the man who took over, but was replaced in the particular role as head of transportation security. Without a much debate and without a report we just put his nomination up on the floor and we voted to have him confirmed so he could get off to a running start.

In any event, we made a mistake. I realize we were behind the curve, and we had a some unnecessary requirements with respect to airline security and they were going in the wrong direction in some instances.

Let me say categorically, I am pleased Admiral Loy, the Commandant of the Coast Guard—we had the Coast Guard authorization in our particular committee, so we worked closely with Admiral Loy on Coast Guard and seaport security. We had field hearings together, as well as within the Senate. He is very realistic, very attune, an expert, very professional, very much experienced on security. He had not

taken over for very long before the August break. I did not demand that he respond to questions for his nomination, but I gave him our questions in a 2-page letter and said: Work over August and we will have a hearing on this security measure, the guns.

I am constantly asked by the press about this issue, and we would be delighted to vote on guns in the cockpit, we would be delighted to vote in the committee.

We had this hearing scheduled. I talked to Admiral Loy only yesterday. He has answered our letter, and he is ready to go next Tuesday.

He has been doing just the right kind of work, getting around and conferring with the airport managers and getting everybody working together. Not unlike the former occupant of this desk who greatly impressed me, Senator Robert Kennedy. He had never been in the courtroom, but when he was selected as the Attorney General of the United States, he was the first Attorney General to go around and shake hands with the 32,000 in the Justice Department at that time.

You have to get your team working together. Admiral Loy has done that. But I say it is a fixed jury because the pilots, as the Senator from New Hampshire has pointed out, have been working this issue. We all have many responsibilities. I just have not had the opportunity to bring up the facts and test what we already have. The Senator from California said: ''And since we know this, and since we know that,'' why have any further tests? I could not agree with the distinguished Senator from California any more. We do know. How do we know? We know from the best of the best.

There is one airline that is under the gun. That is the Israeli airline, El Al. In fact, they have been so successful in preventing hijacking that they do not even have attempted hijackings, as far as we know. They just go after the ticket counter itself, as they did in Los Angeles, and shoot it up and kill those people there.

But knowing El Al is the most under-the-gun airline, we had the privilege of talking to a gentleman, the chief pilot of El Al, in September of last year. It was just about a year ago, slightly less than a year.

He said: ''Senator, what you want to do is get a secure door to the cockpit. That is the last line of defense. Not a gun—the last line of defense is that secure door. And that door is never, ever to be opened in flight.'' Once the door is secure and if there is any disturbance whatsoever in the cabin, they go immediately to the ground and law enforcement meets them there.

The chief pilot of El Al emphasized—I will never forget it—he said: ''Senator, they can be assaulting my wife in the cabin. I do not open that door.''

And for 30 years they have not had a hijacking.

We have a test, and that is why I am on the floor of the Senate trying to make sense out of this bad mistake that is about to be made because there is one thing you do not want to do, and that is put weaponry on the plane itself. In fact, the marshals pointing their guns recently on that Delta flight going into Philadelphia—wrong. You don't point your gun, and law enforcement and gun safety dictate that, unless you intend to use it. Anybody should know that.

So even our marshals need better training already. But be that as it may, for 30 years now they have not had a hijacking on El Al Airlines. We have had a test and we know it.

The trouble is, this has been worked politically. I know how the system works. I look around and I look for the measures and speakers who will talk in support of it. I find out that Senators who first were inclined to vote with me and listen and understand the problem, they have gone. I know the White House position is they should not have them. It has been announced and reaffirmed that they do not want pilots to carry guns in the cockpit. But you don't see anybody out here defending President Bush and the policy of this administration.

More to the point, I could talk all day long, or talk into next week and just hold the floor. I hope we can work out a compromise with respect to keeping the door closed. But let me read a letter, which is new to me. It was less than an hour ago when I had an appointment with Mr. Leo Mullin, the chief executive officer of Delta Airlines down in Atlanta, down in my backyard. Mr. Mullin was there and mentions the discussion we had about the economic travails of air transport in America. He said:

By the way, I want to thank you for your leadership on this.

I haven't led anybody. I can't find anybody behind me. I am not a leader unless they let my staff vote. I think they would go along with me. But I haven't been able to find a Senator to go with me, and we have called the White House.

You can rest for a while. Don't worry about it because I am going to take a little time and give you all some rest. I know I am doing the Lord's work.

This letter is dated today.

Dear Senator Hollings: With the safety of our passengers and crewmembers as our number one priority, we are writing to convey our serious concerns regarding S. 2554 that would permit the use of firearms by pilots aboard commercial aircraft. As discussions continue on the merits of this subject, we stand ready to work with Congress and the Administration in an effort to reach a prudent consensus position. It must be noted, however, that while we are spending literally billions of dollars to keep dangerous weapons off of aircraft, the idea of intentionally introducing thousands of deadly weapons into the system appears to be dangerously counter-productive.

Divert right here. I ask unanimous consent the letter in its entirety be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AIR TRANSPORT ASSOCIATION
OF AMERICA, INC.,
Washington, DC, September 5, 2002.

Hon. ERNEST F. HOLLINGS,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR HOLLINGS: With the safety of our passengers and crewmembers as our number one priority, we are writing to convey our serious concerns regarding S. 2554 that would permit the use of firearms by pilots abroad commercial aircraft. As discussions continue on the merits of this subject, we stand ready to work with Congress and the Administration in an effort to reach a prudent consensus position. It must be noted, however, that while we are spending literally billions of dollars to keep dangerous weapons off of aircraft, the idea of intentionally introducing thousands of deadly weapons into the system appears to be dangerously counter-productive.

In the aftermath of the tragic events of September 11, we understand the rational for providing crewmembers with means to defend themselves and their aircraft. However, we believe that allowing guns aboard every aircraft is ill-advised.

A variety of serious safety, technical and training issues have been raised that require answers prior to moving forward with any proposal to even consider the use of firearms by cockpit crews. To ensure the safety and security of our customers and employees, we have a duty and obligation to ask these tough questions and to have a clear understanding of the answers. Otherwise, innocent passengers and crewmembers will be killed or injured through accidental firings of weapons, or worse, there being used against crews and passengers.

We believe that the public must know what studies or testing have been conducted to determine the effects of an accidental weapon discharge in a pressurized aircraft at altitude, or discharge into a sophisticated instrument panel? How will the firearm be stowed, maintained and protected from misuse between flights, particularly when the aircraft is parked overnight or deployed in international operations? What is the process to measure the ability of armed pilots to handle a firearm in the close confines of the cockpit? Will the training program disrupt the airline's ability to operate their schedules? How often are firearms utilized by trained law enforcement officers lost, misplaced, stolen, fired accidentally or used against the officer carrying the weapons.

The Transportation Security Administration has testified that the cost to the government for the program is approximately $860 million. In light of programs already completed and underway to secure cockpit doors, we seriously question the cost effectiveness of a program mandated in S. 2554 that would impose a further burden on scarce TSA resources. Indeed, with secure cockpit doors now being further upgraded with even higher protective capabilities, the advisability of introducing dangerous and unnecessary weapons in the cockpit environment must be carefully considered.

Until such time as validated answers to these and other questions are available, we believe that a decision to deploy firearms aboard commercial aircraft raises a serious and unnecessary risk for both passengers and crewmembers. Just as we would not introduce an aircraft into service without thorough testing, training of crewmembers and evaluating all safety measures, no one should place deadly weapons in the hands of flight crews without a thorough evaluation.

In view of these concerns, we urge you to reject calls for the introduction of thousands of deadly weapons into the cockpits of our aircraft.

Sincerely,

ATA Board of Directors: Carl D. Donaway, Chairman & CEO, Airborne, Express; John F. Kelly, Chairman, Alaska Airlines; Glenn R. Zander, President & CEO, Aloha Airlines; W. Douglas Parker, Chairman, President & CEO, America West Airlines; Donald J. Carty, Chairman & CEO, American Airlines; J. George Mikelsons, Chairman, President & CEO, American Trans Air; Richard H. Shuyler, Chief Executive Officer, Atlas Air; Gordon Bethune, Chairman & CEO, Continental Airlines; Leo F. Mullin, Chairman & CEO, Delta Air Lines; Vicki Bretthauer, Acting Chief Executive Officer, DHL Airways; Jerry Trimarco, Chief Executive Officer, Emery Worldwide; Anthony E. Bauckham, President, Evergreen International Airlines; Frederick W. Smith, Chairman & CEO, FedEx Corporation; John W. Adams, Chairman, President & CEO, Hawaiian Airlines; David Neeleman, Chief Executive Officer, JetBlue Airways; Timothy E. Hoeksema, Chairman, President & CEO, Midwest Express Airlines; Richard H. Anderson, Chief Executive Officer, Northwest Airlines; Herbert D. Kelleher, Chairman, Southwest Airlines; Glenn Tilton, Chairman, President & CEO, United Airlines; David N. Siegel, President & CEO, US Airways; Thomas H. Weidemeyer, President, United Parcel Service Airlines

Mr. HOLLINGS. I think there are 101,249 commercial airline pilots with active pilot certificates. So we could have 100,000 running around here with pistols. And, incidentally, possibly getting pistols on board for the hijackers because you have to understand that hijacking has changed now.

You don't just have an individual coming on board because he wants to fly to Cuba. You don't have somebody escaping criminal justice because he wants to get out of the country. We know and we have been put on notice, they have five-man teams, professional suicidal terrorists. Try that on, Senator SMITH. Try that on as a pilot. You are a big man. I think Senator SMITH could take care of two of them. I think he could take care of two of them and, with a pistol, maybe take care of three. But while he has already killed three, unloading, quick, the pistol, they still have two more that are going to knock him down and take over the other pilot.

You crack that door and you are a goner. You are not going to stop professional teams of suicidal attackers. I don't care how good a pilot or how much training you have had, it is not going to happen. That plane is going to be taken over.

Think about the situation where there is some disruption and I have a pistol and some fellow is coming after me and I can defend myself. That is not the problem. The problem here is to prevent, if you please, Senator, an airline in the United States, a commercial airline, from ever being used as a weapon of mass destruction. You don't want to save people from getting hurt or whatever else, but you save it, with all that fuel aboard, from ever being run into the Chrysler Building, the Empire State Building, the Sears Building, the Coca-Cola Building down there in Atlanta—wherever they want to run it. They can make a mark if they wiped out the Coca-Cola Building in Atlanta, I can tell you that. And that is the whole idea. It is not necessarily how many, but to get it on national news.

So it is that they commercially trade. They stay in country for at least 2 years. They are disciplined. You never know they are here. They train at the gym every day, they are physically fit, and they go on-board planes not with pistols but with box cutters, or whatever else they have on them. But they know how to break in any ordinary cracked door and take over that plane. So you can't crack the door. They should never be opened in flight—and we would have a 30-year record of no hijacks and never have this occur again.

There is one way I know of that I can guarantee the American public the best security I can—if anybody can give that guarantee—is to take the El Al procedure and protocol and follow it to the letter T. They have a 30-year track record of success.

I will go ahead and read because they have something about testing. I am not worried about cost. I am not worried about testing. I am not worried about the professionalism in the trade. I am worried about this never, ever happening again—no 9/11.

I am able, if I can get a majority of this body to go along with me and go along with the administration, to give the public that kind of assurance—that they can get on a plane; immediately the plane will take off. You won't have the plane flying around above you, ''Hey, they are ready to shoot you down,'' because you have secured the cockpit door and there is not going to be any need to shoot down a plane. The plane itself is not going down because it was forced. You don't have to worry about it because it is going by a big building or a nuclear power plant. You don't have to worry about, 30 minutes after takeoff and 30 minutes before landing, keeping your seat, because you are not going to have to worry about that kind of activity, and that is a silly rule, if I have ever heard one. It is one that we ought to be able to get rid of. You don't have to worry about taking off from Reagan National and running into the White House. You don't have to worry about that because as they take off, the door is secure. If they start storming the door, they will land at Dulles with law enforcement to meet them. That hijacking team knows they are going off to the jail. I have given them the guarantee.

But if, in turn, you want to support these pistols in the cockpit and if you are going to guarantee that weaponry is there, we hope they can use it. Getting it on the plane and keeping it in the cockpit—a secure little safe, or whatever it is—it is just a bad idea to arm a plane.

Let me read further, since the entire letter is one of particular interest.

I quote from the letter from the Air Transport Association:

In the aftermath of the tragic events of September 11, we understand the rationale for providing crewmembers with means to defend themselves and their aircraft. However, we believe that allowing guns aboard every aircraft in the absence of comprehensive research and testing and without a full evaluation of the potential consequences, is ill-advised.

A variety of serious safety, technical and training issues have been raised that require answers prior to moving forward with any proposal to allow the use of firearms by cockpit crews. To ensure the safety and security of our customers and employees, we have a duty and obligation to ask these tough questions and to have a clear understanding of the answers. Otherwise, innocent passengers and crewmembers could be killed or injured—through accidental firings of weapons or, worse, their being used against crews and passengers.

For example, what studies or testing have been conducted to determine the effects of an accidental weapon discharge in a pressurized aircraft at altitude, or discharge into a sophisticated instrument panel? How will the firearm be stowed, maintained and protected from misuse between flights, particularly when the aircraft is parked overnight or deployed in international operations?

Let me divert. There is a law in a lot of these countries that you can't have a weapon. There is not going to be a weapon in a cockpit if you land in downtown Heathrow. We know that. You have all kinds of considerations that come into this.

Let me further read from the letter:

What is the process to measure the ability of armed pilots to handle a firearm in the close confines of the cockpit? Will the training program disrupt the airline's ability to operate their schedules?

How often are firearms utilized by trained law enforcement officers? Will they be lost, or misplaced? Will they be fired accidentally, or used against the officer carrying the weapon?

I have the figures on that. In some years, over 10 percent of law enforcement officers are killed when their own weapons are used against them. I have all kinds of criminal statistics from the FBI.

I read further:

The Transportation Security Administration has testified that the cost to the government for the program is approximately $850 million.

I agree with the distinguished Senator from New Hampshire. I am not worried about the cost. Some should be worried about costs. As of yesterday at 11 o'clock, the deficit was $394 billion, and by the end of the month it will exceed $400 billion. But you can see what they are doing now. They are trying to offload expenditures into the next fiscal year because they are worried about the campaign a couple of months from this time in November. And they have come from a $5.6 trillion surplus. They already have created a $400 billion deficit. Nobody wants to talk about it. We asked corporate America for a certificate under oath that we have gotten corporate America away from corruption—certified by the CEO.

Get the CEO of the U.S. Government to certify his figure. No way, Jose.

I will go back. I read that sentence again in this letter.

The Transportation Security Administration has testified that the cost to the government for the program is approximately $850 million. In light of programs already completed and underway to secure cockpit doors, we seriously question the cost effectiveness of a program mandated in S. 2554 that would impose a further burden on scarce TSA resources.

Therein I divert to join the Senator from New Hampshire and the Senator from California. I am not worried about the cost. I think they are right. When we are trying to prevent a 9/11, let us not start talking money around here. When somebody is against something, they all want to start talking money. But when I get up and try to get it paid for, I can't find anybody who wants to pay.

Talking about Social Security, we have been using that as a piggy bank, and not a lockbox. Come on. We know it.

Indeed, with secure cockpit doors now being further upgraded with even higher protective capabilities, the advisability of introducing dangerous and unnecessary weapons in the cockpit environment must be carefully considered.

Until such time as validated answers to these and other questions are available, we believe that a decision to deploy firearms aboard commercial aircraft raises a serious and unnecessary risk for both passengers and crewmembers. Just as we would not introduce an aircraft into service without thorough testing, training of crewmembers and evaluating all safety measures, no one should place deadly weapons in the hands of flight crews without a thorough evaluation.

In view of these concerns, we urge you to reject calls for the introduction of thousands of deadly weapons into the cockpits of our aircraft.

I say to the Senator from California, you had a nice letter and thousands of pilots. Here are the people who are running the airlines, the ATA board of directors: Carl D. Donaway, chairman and CEO of Airborne Express; John F. Kelly, chairman of Alaska Airlines; Glenn R. Zander, president and CEO of Aloha Airlines; W. Douglas Parker, chairman, president, and CEO of American West Airlines; Donald J. Carty, chairman and CEO of American Airlines; J. George Mikelsons, chairman, president, and CEO of American Trans Air; Richard H. Shuyler, chief executive officer of Atlas Air; Gordon Bethune, chairman and CEO of Continental Airlines; Leo F. Mullin, chairman and CEO of Senator MILLER's airline, Delta Air Lines; Vicki Bretthauer, acting chief executive officer of DHL Airways; Jerry Trimarco, chief executive officer, Emery Worldwide; Anthony E. Bauckham, president of Evergreen International Airlines; Frederick W. Smith, chairman and CEO of FedEx Corporation; John W. Adams, chairman, president, and CEO of Hawaiian Airlines; David Neeleman, chief executive officer of JetBlue Airways; Timothy E. Hoeksema, chairman, president, and CEO of Midwest Express Airlines; Richard H. Anderson, chief executive officer of Northwest Airlines; Herbert D. Kelleher, chairman of Southwest Airlines; Glenn Tilton, chairman, president, and CEO of United Airlines; David N. Siegel, president and CEO of US Airways; Thomas H. Weidemeyer, president of United Parcel Service Airlines. I think——

Mrs. BOXER. Will the Senator yield for a question?

Mr. HOLLINGS. For a question, yes, ma'am, I am glad to yield.

Mrs. BOXER. I thank the Senator. The Senator always makes a great argument for his position, but I have to say, these are the very same airlines who have not given the flight attendants one new bit of training.

Mr. HOLLINGS. I will agree with the Senator 100 percent. We have to get the flight attendants.

Mrs. BOXER. Good.

Mr. HOLLINGS. They are on the front lines. We call them in a war, the MLR, the main line of resistance. With my door secure, it is the flight attendants who are going to have to defends themselves while getting the plane down to the ground.

Mrs. BOXER. I know the Senator is with us on that. I want to make the point, though, as you name the names of folks who are good folks and good business-people—some better business-people than others—they have not embraced a lot of things that you and I embrace. In this case you agree with them, But they are not in the planes. They fly around in their own corporate jets.

I say to my friend, it is the flight attendants, the pilots, and the passengers in the planes. I honestly think if you want to look to who the leaders are on safety, I would rather look to the pilots and the flight attendants.

But I know my friend feels very strongly about the cockpit doors, and I so agree with him. I just want to pose this question to him. He will have the floor as long as he wants, although I hope we can reach some agreement on the doors so we can end this lengthy debate.

The Kevlar doors, which have been put into some of the JetBlue planes, to me, are a tremendous answer because you cannot penetrate that Kevlar door if it is kept shut.

So I want to know if my friend had seen a demonstration of that Kevlar. And as we work together on the committee, I want to work with you on those doors. But I hope we can accommodate you in this bill and that we can bring this to a vote.

Mr. HOLLINGS. Right. Well, I don't know about agreeing to the vote. I want to hear some more. I might be persuaded by the Senator from Georgia or the Senator from New Hampshire. I am sure they are going to have more to say.

But, yes, one, on the flight attendants, absolutely we have to. And we have that hearing next week. And we finally have someone in charge of airline security. You know it. I think you like Admiral Loy. I like Admiral Loy. He is the bipartisan choice of the committee.

Mrs. BOXER. Right.

Mr. HOLLINGS. So, working with him, we are going to find out his steps, and when, and get realistic drop-dead dates, and so forth, especially airports—that they can't be rebuilt—and get this equipment in and everything else.

I remember the distinguished Senator said: Look, they make them out in my backyard, and they are only making seven a month. They can make 50 a month if they have the orders.

This was last year.

Mrs. BOXER. Right.

Mr. HOLLINGS. They were not ordering all the things. They were wondering about the curtains in the office and the logo. Do you not remember?

Mrs. BOXER. Right.

Mr. HOLLINGS. So we are together on that. I will agree with you on the flight attendants and anything else we can possibly get done to increase safety, and more than anything else, get the airline business back up and going.

I am very much disturbed that we could adopt the Smith-Boxer amendment, and you could have a plane being used as a weapon of mass destruction. There isn't any question about it. It is not going to be one fellow, and one fellow defending himself in the cockpit. I can see it now, with the flight attendant outside saying, ''He's killing me''—whatever it is—''Open the door.'' Once that door is slightly cracked, they have their team, and they will have practiced how to take over that plane.

They will take the shots, the first two or something like that, but the other three will get in and have that plane. And they will have control and they will have pistols. They will take that pistol away. I can tell you that here and now.

So you have really weaponized the aircraft, which El Al says do not ever do that. I can tell you that right now. Don't weaponize. They do not have weapons in the cockpit.

With that having been said, that is why I feel as strongly as I do. We have had the tests. I agree with the distinguished colleagues. We are not worried about cost in this instance. We have already spent $15 billion to keep people economically going. To save one life, I would spend another $15 billion. So it is not the cost; it is not the training; this is a tested and true program of never having had a hijacking in 30 years.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MILLER. Madam President, I believe that my timing could have been a little better.

Mr. REID. Madam President, will the Senator from Georgia yield for a question?

Mr. MILLER. Yes.

Mr. REID. I have heard a lot of the debate—not all of the debate—and I

have had a number of Senators from both sides who are interested in knowing when they could leave. I was trying to figure out a better way to say that. I wonder if there is any idea now from the Senators involved—Senators Boxer, SMITH, and HOLLINGS—as to how much longer is needed to debate this before we have a vote.

Mr. HOLLINGS. Not quite yet.

Mrs. BOXER. If I might just answer the question this way: I would say, in all honesty, the ball is in the court of my chairman, Chairman HOLLINGS. We have a couple of people who want to talk, but they are not asking for a lot of time. They have brief comments. But as soon as the Senator from South Carolina believes he is ready, we are ready. We do not have anything else we have to add. So we are working with him. We are trying to work with him on the issue of cockpit doors. We are hoping that it will occur to him to perhaps support us or at least allow us to have a vote. We just have to wait and see.

Mr. REID. Madam President, I appreciate very much the Senator from Georgia yielding. I just say this: I can remember when the Senator offered his amendment, which was adopted overwhelmingly, on the energy bill that pickups would not be subject to SUV guidelines. And I had a conversation with the Senator from Georgia at that time that I thought it should be a requirement that all pickups sold in the United States should come out with gun racks. Do you remember that, Senator?

Mr. MILLER. I would be happy not to make any remarks and we vote right now. I am not anxious to follow Senator HOLLINGS in this debate. But if we are not going to have a vote right now, then I think I will make some remarks.

Mr. REID. I think you should proceed.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MILLER. Madam President, as I started to say, my timing could be somewhat better than following my good friend from South Carolina.

No one in this body or outside of this body has more respect, more admiration, and more downright affection for someone than I do for the Senator from South Carolina. His record as Lieutenant Governor, as Governor, and as Senator for 35 years is stuff of which legends are made. On this issue, unfortunately, I disagree with him, because I rise today in support of this amendment.

Our airline pilots are among the most highly trained professionals in all of the American workforce. Every day millions of Americans put their lives in the hands of airline pilots, and we have great reason to give them our trust.

Thanks to literally thousands and thousands of hours of training, commercial airline pilots have made aviation our Nation's safest form of public transportation. But since September 11, our Nation's pilots are faced with a grave new danger: Homicidal fanatics who think nothing of using our airplanes to kill themselves and as many Americans as they can.

With these new threats, the American public has uniformly called for giving the pilots every measure of protection possible in order to make our skies safer.

But there are some folks who are leery of putting their trust in our Nation's pilots. I cannot understand the logic that says we can trust someone with a Boeing 747 in bad weather, but we cannot trust that same person with a Glock 9 millimeter.

The folks who oppose arming pilots say we should put our trust elsewhere. We have heard about making the doors stronger. We have heard about security screeners. The Senator from California talked about the recent examples in the airports in New York where so many went through with things that they should not have had in their luggage. We all know how that is. We travel. We see it. Deep down we know it is a screening process that our Nation's Transportation Security Administration's own studies show fails one out of every four times. So let's face it, if our pilots were failing one out of every four landings, America would not be putting our trust in them to keep us safe.

Our Nation's air safety plan has multiple levels, from little steps such as banning nail clippers, all the way up to authorizing military fighter aircraft to shoot down a commercial jetliner filled with innocent passengers.

Why is there not—somewhere between banning nail clippers and shooting down the plane, somewhere between those two extremes—some room for allowing a trained pilot to use a handgun to defend the cockpit?

Some critics have worried what might happen if terrorists got hold of the gun, to which I would answer: Nothing worse than if terrorists got control of the aircraft. Others wonder what happens if a bullet goes astray in the fight with a terrorist. Could it damage the aircraft? I would answer: Yes, but not nearly as much as a missile that would be fired at the aircraft if terrorists took control.

If you have any doubts about how the American public feels about this subject, ask them this question: If you had to choose between flying on an airline with pilots who were armed to protect the cockpit and an airline whose pilots were unarmed, which would you choose? I am convinced they would overwhelmingly choose to fly with armed pilots, and I am just as convinced that terrorists would prefer to fly with defenseless pilots.

That is why I am a cosponsor of this bipartisan amendment to train and arm our Nation's airline pilots. I, for one, trust our Nation's pilots to keep me safe when I fly. But I want to give them more than just my trust. I want to give them the training and the tools they need to keep all Americans safe in the air.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I have recently—in fact, today—received a copy of a letter that was addressed to me as well as primarily to Senator HOLLINGS, chairman of the Commerce Committee. I think it is an important letter.

The views of the administration should be considered, as is always the case or should always be the case when we are dealing with issues. This one, of course, is very emotional and, frankly, an issue which has been polarizing in some respects.

I would like to read this letter that was delivered today. I hope my colleagues will pay attention to some of the concerns raised here and perhaps understand that there are some difficult issues that need to be addressed. Among them are training, cockpit modifications, coordination with other nations and international airlines—for example, landing in a country that has stricter gun control laws—and complying with State and local gun control laws. As we know, there are different laws in different States, the issue of legal liability, support organization, and the cost. So I would like to read this letter that was sent by Admiral Loy to Senator HOLLINGS with a copy to me:

Dear Mr. Chairman, This responds to your letter to me of August 1, 2002. I wanted to answer your question on my views about whether and how to arm flight deck crews operating commercial aircraft. The balance of the questions in your letter will be addressed by separate correspondence, which I will send you later this week.

This letter is from Admiral Loy, the new acting Under Secretary for the Transportation Security Administration.

He goes on to say:

After I began work as the Acting Under Secretary at the Transportation Security Administration (TSA), and following the vote in July by the House of Representatives supporting a program to arm pilots with lethal weapons, Secretary Mineta asked me to review the range of issues associated with a voluntary deployment of guns in the cockpit. His concern and mine is, above all, to ensure the safety of airline passengers and crew. I have finished my review and wanted to share my conclusions and concerns with you while the discussion continues in the Congress.

Our review included significant outreach in which we sought counsel from airlines, pilots, airports, the FAA and numerous federal law enforcement agencies, including the FBI, Secret Service and ATF. The study team evaluated a range of deployment and training options and numerous associated policy and budget issues. The review was intended to reach general conclusions and also to outline the elements of the general protocols to be followed if a decision was made to arm pilots. A core assumption of pending legislation, and also of our review, was that any program would be carried out by volunteer pilots who would receive training consistent with the designation as armed Federal Flight Deck Officers.

We concluded that if legislation is passed authorizing a program to arm pilots with lethal weapons, it would be preferable if pilots

were individually issued lockboxes that would be used to transport their weapons to and from the aircraft. They would be trained on weapon use and their responsibilities under the program, and subject to periodic evaluation. The pilots would be responsible for maintenance and proper care of the weapon. We determined that the alternative program design—having general use weapons stored aboard an aircraft and maintained by a cadre of airline employees—poses greater security risks, operational complexity and cost.

Many of the federal law enforcement experts we consulted continue to have significant concerns about arming pilots with either lethal or non-lethal weapons. The airline industry shares these concerns. The Board of Directors of the Air Transport Association has sent Secretary Mineta a letter signed by twenty-one airline chief executive officers urging a cautious approach to arming pilots and outling their concerns (attached).

I ask unanimous consent that the letter from the board of directors of the Air Transport Association, sent to Secretary Mineta, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AIR TRANSPORT ASSOCIATION,
Washington, DC, September 2, 2002.

Hon. NORMAN Y. MINETA,
Secretary, Department of Transportation, Washington, DC.

DEAR MR. SECRETARY: With the safety of our passengers and crewmembers as our number one priority, we are writing to convey our thoughts regarding S. 2554 that would permit the use of firearms by pilots aboard commercial aircraft. As discussions continue on the merits of this subject, we stand ready to work with Congress and the Administration in an effort to reach a prudent consensus position.

In the aftermath of the tragic events of September 11, we understand the rationale for providing crewmembers with means to defend themselves and their aircraft. However, we believe that allowing guns aboard every aircraft in the absence of comprehensive research and testing and without a full evaluation of the potential consequences, is ill-advised.

A variety of serious safety, technical and training issues have been raised that require answers prior to moving forward with any proposal to allow the use of firearms by cockpit crews. To ensure the safety and security of our customers and employees, we have a duty and obligation to ask these tough questions and to have a clear understanding of the answers. Otherwise, innocent passengers and crewmembers could be killed or injured.

For example, what studies or testing have been conducted to determine the effects of an accidental weapon discharge in a pressurized aircraft at altitude, or discharge into a sophisticated instrument panel? How will the firearm be stowed, maintained and protected from misuse between flights, particularly when the aircraft is parked overnight or deployed in international operations? What is the process to measure the ability of armed pilots to handle a firearm in the close confines of the cockpit? Will the training program disrupt the airline's ability to operate their schedules?

The Transportation Security Administration has testified that the cost to the government for the program is approximately $850 million. In light of programs already completed and underway to secure cockpit doors, we seriously question the cost effectiveness of a program mandated in S. 2554 that would impose a further burden on scarce TSA resources. Indeed, with secure cockpit doors now being further upgraded with even higher protective capabilities, the advisability of introducing dangerous and unnecessary weapons in the cockpit environment must be carefully considered.

Until such time as validated answers to these and other questions are available, we believe that a decision to deploy firearms aboard commercial aircraft raises a serious and unnecessary risk for both passengers and crewmembers. Just as we would not introduce an aircraft into service without thorough testing, training of crewmembers and evaluating all safety measures, no one should place deadly weapons in the hands of flight crews without a thorough evaluation.

In view of these concerns, we urge you to consider a more pragmatic, thoughtful approach that does not interject excessive risks and consequences for the traveling public and our employees. Moving forward, you can rest assured we will continue to take all necessary steps to ensure that air travel remains the world's safest form of transportation.

Sincerely,

ATA Board of Directors: Carl D. Donaway, Chairman & CEO, Airborne Express; John F. Kelly, Chairman, Alaska Airlines; Glenn R. Zander, President & CEO, Aloha Airlines; W. Douglas Parker, Chairman, President & CEO, America West Airlines; Donald J. Carty, Chairman & CEO, American Airlines; J. George Mikelsons, Chairman, President & CEO, American Trans Air; Richard H. Shuyler, Chief Executive Officer, Atlas Air; Gordon Bethune, Chairman & CEO, Continental Airlines; Leo F. Mullin, Chairman & CEO, Delta Air Lines; Vicky Bretthauer, Acting Chief Executive Officer, DHL Airways.

Jerry Trimarco, Chief Executive Officer, Emery Worldwide; Anthony E. Bauckham, President, Evergreen International Airlines; Frederick W. Smith, Chairman & CEO, FedEx Corporation; John W. Adams, Chairman, President & CEO, Hawaiian Airlines; David Neeleman, Chief Executive Officer, JetBlue Airways; Timothy E. Hoeksema, Chairman, President & CEO, Midwest Express Airlines; Richard H. Anderson, Chief Executive Officer, Northwest Airlines; Herbert D. Kelleher, Chairman, Southwest Airlines; John W. Creighton, Jr., Chairman & CEO, United Airlines; Thomas H. Weidemeyer, President, United Parcel Service Airlines; David N. Siegel, President & CEO, US Airways.

Mr. MCCAIN. Continuing from Admiral Loy's letter to Chairman HOLLINGS:

We agree that there are literally dozens of issues that would need to be resolved as part of a program involving lethal weapons. Let me mention a few such issues or questions.

The next topic that he brings up is entitled ''Training curricula and program design.''

We estimate that some 85,000 pilots may be eligible for the program authorized by the House. In order to avoid significant safety and security risk, a detailed, effective training program must be designed from scratch and tested. This must include firearms training and safety instruction. It would include classroom training on numerous issues, such as airport security procedures that would be established for airline employees to carry weapons through airports, and the legal liability and responsibilities of employees and airlines when a weapon is carried on duty and off duty. It must include specific training about the circumstances under which the weapon may be used onboard the aircraft and outside the aircraft at airports and within the community at large. It must establish protocols and communications tools to coordinate a pilot's responsibilities with those of Federal Air Marshals and other law enforcement officers authorized to travel armed. It is possible that special training facilities would be needed for high-volume training, so that the program could incorporate at least some practice in a simulated aircraft environment, such as is provided to our Federal Air Marshals.

Cockpit modifications. In order to allow ready access to the weapon in the cockpit while securing it appropriately, it would be necessary to install special sleeves for the weapons in each cockpit. Obviously each different aircraft will raise different design and installation considerations. It would be necessary for TSA, the airlines and aircraft manufacturers to assess these issues in more detail.

Coordination with other nations and international airlines. There are numerous thorny issues that must be resolved with foreign nations and foreign airlines. For example, pilots flying international routes for a U.S. carrier must comply with gun control laws abroad. In order to avoid conflict, TSA, with the support of other federal agencies, would need to undertake extensive coordination with countries around the globe to clarify rights and responsibilities of airline employees traveling armed. Would we authorize the employees of foreign air carriers to participate in this program? Would we provide reciprocal access to the U.S. if other nations design similar programs to arm pilots? What type of background investigation would be possible and necessary? Who would pay?

Complying with state and local gun control laws. We have only begun to assess the issues associated with complying with state and local gun control laws. Our review suggests that some meaningful legal work and coordination would be an early task for the program.

Legal liability. There are numerous and complex issues of legal liability that need careful, thorough review. These relate to the pilots, flight crews, other airline employees, the airlines, airports, vendors supporting the program and individuals who provide training to the pilots participating in the program.

A large support organization. A worldwide program of this size would require sizable staff and support. Existing TSA headquarters functions would be considerably stretched in order to manage the program, track the inventory of federal weapons and investigate accidental weapon discharges, program operation and public complaints.

Cost. Our preliminary estimate is that a program involving all commercial pilots could cost up to $900 million for the start-up and some $250 million annually thereafter. Of course these estimates must be refined to reflect details of an actual program, including the possibility that fewer than all commercial pilots will participate. These estimates do not include any projections for necessary cockpit modifications to accommodate ready access to the firearms. The total program costs may vary widely according to program design decisions, but any program open to all pilots would be very expensive. TSA's current budget does not allow for further work in this area, which raises the question of who will bear the cost of this potentially expensive program.

I am convinced that if there is to be responsible legislation establishing a program

to allow guns in the cockpit, it must address the numerous safety, security, cost and operational issues raised by TSA's review, and should enable us to implement the program in a methodical, careful, and pragmatic manner.

I remain committed to working with the Senate and the House of Representatives on this important issue. I have provided an identical copy of this letter to Senator McCain. Thank you for your interest and leadership in this matter and I look forward to our hearing next Tuesday.

Very Respectfully,

JAMES M. LOY,
Acting Under Secretary.

The reason I read this letter is that I think it is important for us to understand there are a lot of complexities involved with implementing a program of this nature. I know there are certain foreign countries where no one is allowed to carry or possess a weapon under any circumstances—certainly not a hand weapon, if it is not for hunting purposes. I know there are different laws in different States as far as weapons control is concerned.

I wonder who is going to pay the $900 million for startup and some $250 million annually thereafter. I think that issue should be addressed here. I visited with the CEO of a major airline this morning who made a compelling case that the major airlines in the United States are in deep and serious trouble. One major airline just declared bankruptcy. Others are convinced that another major airline will be declaring bankruptcy soon.

Who is going to pay for this program? Are we going to lay it on the airlines, or are we going to lay it on the taxpayers of America?

Legal liability is always a question whenever we embark on a program that involves the use of weapons. The support organization at TSA, I think, is a legitimate question. Right now, we are facing a deadline of the end of the year for installation of devices that would check all luggage. We all know that isn't going to happen. We are undergoing the transition from private companies to Federal employees at our airports.

So what I am asking is that the sponsors of the legislation, who obviously feel very strongly on this issue, make sure that, as we enact this legislation—and I am convinced there will be a significant vote in support of this amendment—these issues are adequately addressed. I think these issues warrant our concern and our attention. There are very small airplanes—for example, commuter aircraft—that carry a sizable number of passengers. How are we going to put those weapons in those very small cockpits? I am sure there is a way, but I want to impress upon my colleagues that there is a lot of complexity associated with this issue as outlined by Admiral Loy, and there are other concerns that I think we deserve to know at least some of the solutions for as we address this amendment and this issue, which has already been passed by the other body and, I am confident, would be passed by a large vote here.

I yield the floor.

Mr. LIEBERMAN. Madam President, I rise to support this amendment, which would enable those we already entrust with our lives on airplanes—namely, pilots and flight attendants—to have the tools and the training they need to disable terrorists in the air.

Since September 11th, we have taken many steps to make it safer to fly. For all the agency's troubles, the creation of the Transportation Safety Administration has been a step forward. Airlines themselves have beefed up their security. Airports like Bradley International Airport in Windsor Locks, Connecticut—which I toured last month—have made very visible progress. And so much of this progress has resulted from better collaboration and cooperation, which bodes well for the creation of a Department of Homeland Security.

But we still have a long way to go and a short time to get there. I was disturbed by an investigative report in yesterday's New York Daily News. Let me read you the opening:

Carry-on bags concealing potentially deadly weapons. Six major airlines. Eleven airports. Fourteen flights. And not once did anyone catch on.

To test the supposedly more stringent security imposed at the nation's airports after the Sept. 11 attacks, Daily News reporters boarded flights over the Labor Day weekend carrying contraband—including box cutters, razor knives and pepper spray.

Not a single airport security checkpoint spotted or confiscated any of the dangerous items, all of which have been banned from airports and planes by federal authorities.

Obviously we must fix these lapses without further delay. But at the same time, we have to realize no matter what security procedures we put in place on the ground, they won't be failsafe. We need a security network that's flexible enough to protect passengers from danger even if one link in the chain breaks down.

The reality is, if a dangerous person has managed to get on a plane with a weapon or an explosive device, there is one last line of defense: the people on the plane. We need to make sure that last line of defense is a strong line of defense.

Having our flight crew carry weapons has been carefully considered in both houses of Congress. We've thought through stun guns as an alternative, but it turns out they are unreliable, and the cockpit is too small to use them effectively. While potential concerns and complications about equipping pilots with firearms have been raised, in the end, this idea just makes sense.

It is also important to note that this amendment provides much-needed training and communications capability for the cabin crew. These provisions will prepare flight attendants, who are often the first to encounter potential hijackers on a flight, to handle such threats. Flight attendants will also have improved communications with the cockpit in the event of an emergency.

Besides the fact that firearms can actually give our flight crews a practical advantage over terrorists in the air—if it comes down to that—sending the message that the good guys will be armed gives us an important psychological advantage as well. The mere fact that a pilot or co-pilot could have a lethal weapon should be a powerful deterrent to would-be terrorists.

We will never forget the heroism of the men and women on Flight 93 who resisted the highjackers and brought down that plane, which may well have been headed in our direction. It is in their spirit that this amendment should be considered. The flight crew isn't a passive target. It is an active force that can fight back against anyone who seeks to hijack a plane or use it as a weapon ever again.

Of course we need to secure the cockpit door. Of course we need to make sure that the passengers are screened effectively for weapons. Of course we need to have high-quality, well-trained air marshals on our flights. But we should also take this sane, sensible step of training and equipping our flight crews, who we already entrust with our lives, with the tools they need to protect us.

I strongly support this amendment.

Mr. SPECTER. Madam President, I am unable to support the amendment by my colleagues Senator SMITH and Senator BOXER to arm pilots on commercial flights because I am concerned that such a proposal would invite gun fights in the cockpit.

I believe that federal air marshals are the individuals best suited to handle any terrorist situation which might arise on a flight, and am fully supportive of providing the financial resources necessary to hire additional air marshals. Although this amendment would provide significant training for pilots to handle firearms, I remain concerned that in an emergency situation their concentration should be focused on flying the plane, not dealing with attackers in the passenger cabin.

I do strongly support the provision in the amendment which would provide self-defense training for flight attendants, however I simply do not believe it is worth the risk to have the availability of guns in the cockpit which could fall into terrorist hands.

Mr. HATCH. Madam President, I rise today in support of the amendment offered by my friend and colleague, Senator BOB SMITH, the Arming Pilots Against Terrorism and Cabin Defense Act of 2002. This amendment sends a strong message to would-be terrorists and acts as a significant deterrent against the hijacking of America's planes.

As a last line of defense in potential terrorist attacks, I believe that pilots who want to should have the ability to carry firearms in order to defend the cockpit. This is a policy that makes sense. An overwhelming majority of the American public supports arming

pilots. Counterterrorism experts believe that firearms are the best deterrent when it comes to cockpit security.

I have heard from large numbers of pilots and constituents from my home state of Utah who advocate for the ability of pilots to carry guns to protect the cockpit. It is my hope that this amendment will help ensure that all who travel on airlines feel safe, including pilots, flight attendants, and most importantly, the public. While I support the right of pilots to carry weapons on-board aircraft, at the same time, it is important for them to receive the proper training to be able to discharge a firearm in the cockpit safely and effectively.

I also support the language in this amendment that exempts the airlines and pilots from liability as they attempt to defend our airplanes. This is an industry that has been struggling, even before the tragic events of September 11th. We must not further burden these companies with what could eventually be frivolous lawsuits that would endanger the domestic airline industries very existence. I am encouraged to see that this important issue is addressed in Senator SMITH's amendment.

I must add that, while there are many worthy aspects to this amendment, portions of it give me pause. The foremost issue is who bears the burden of its cost. At a time when Congress has critically-important decisions to make as we face our responsibility to improve our national aviation and homeland security procedures, we must balance those responsibilities with our commitment that many of us made to our constituents to spend within our means and avoid increased deficit spending.

This amendment could have serious unintended consequences. As part of our nation's aviation and homeland security policy, the Federal Government is already paying for Federal air marshals, the federalization of the baggage screening process, and reinforced cockpit doors. These are important safety measures that I strongly support. The Transportation Security Administration estimates this amendment will initially cost approximately $884 million, of which the majority, $865 million, will go to pay for training, requalification, equipment, background checks, program management, and direct course costs for 85,000 pilots over a period of two years. And at least $264 million of the $885 million will be recurring costs. Furthermore, an additional $16.5 million will need to be allocated for the purchase and installation of gun storage boxes on airplanes. That being said, I don't think that the airline industry can afford to pay these training costs either.

Serious questions must be raised about having the Federal Government shouldering the costs of training. The amendment not only allows for pilots to be trained, but flight attendants as well. I strongly support the ability of these individuals to carry weapons onboard planes after they have received proper training, I am concerned about the Federal Government picking up the tab.

While I have reservations over a few of the provisions of this bill, on the other hand, it can readily be argued that no legislation allowing pilots to be armed if they wish might compromise the safety of our skies. This is not a perfect piece of legislation, but on balance, I think it is a needed one. I will vote for this amendment in order to take an additional step to help ensure the safety of our airlines and urge my colleagues to do the same.

Mr. THURMOND. Madam President, I rise today in support of the amendment to establish a program to permit pilots to defend their aircraft against acts of criminal violence or air piracy. This legislation will provide a critical last line of defense to secure commercial aircraft, allowing qualified pilots to carry firearms.

The legislation requires the Under Secretary of Transportation for Security to establish a program not later than 90 days after the date of enactment to deputize qualified volunteer pilots as Federal law enforcement officers to defend the cockpits of commercial aircraft in flight against acts of criminal violence or air piracy. Pilots who are deputized will be known as ''Federal Flight Deck Officers'' and will be authorized to carry a firearm and use force—including deadly force—against an individual in defense of an aircraft.

I was disappointed that the Department of Transportation initially opposed this effort. Recently the Department has indicated its support for a limited pilot program. While important steps to improve the security of our airports and protect the flying public have been taken, the tragic events of last September 11th demonstrated our enemies will stop at nothing to inflict harm on Americans and destroy our way of life. Our response must be equally as determined and resolute. We must not take half measures or engage in wishful thinking. We must not refrain from utilizing every tool we possess. We must enable those who pilot commercial passenger aircraft to defend against any threat and protect the safety of their aircraft and passengers. And finally, we must do so without further delay. This amendment properly addresses those concerns and I strongly support its passage.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. We are very close to having a vote on this amendment. Senators BOXER and SMITH worked out the problem with the Commerce Committee. I am grateful for that. The only speaker I know of is Senator MURKOWSKI, who wishes to speak for about 5 minutes on this issue.

I ask unanimous consent that as soon as he completes his statement, the Senator from California be recognized to modify her amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I also ask unanimous consent that the Senate then vote with respect to the Reid for Boxer-Smith amendment No. 4492; that upon disposition of that amendment, the Smith amendment No. 4491, as amended, if amended, be agreed to, and the motion to reconsider be laid upon the table, without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. So Members should be advised that at approximately 4:55 there will be a vote.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Madam President, I didn't hear the time of the vote.

Mr. REID. As soon as the Senator has finished.

Mr. MURKOWSKI. Madam President, I am proud to join Senator SMITH, Senator BOXER, and others. I was one of the original Members joining Senator SMITH in this effort, which allows commercial pilots the right to carry firearms in defense of their aircraft.

We have heard the explanation given time and again, if indeed an aircraft is hijacked and you happen to be on that plane, that there is the authority to take that airplane down with a military jet, an F–16, or whatever. I think any Member, if asked would they support having the pilot in command of the aircraft having a weapon of some kind, a handgun, as a last line of defense, that virtually every Member of this body would say absolutely, anything other than the alternative, which would be to take the aircraft down.

I have listened to the debate here off and on today, and I would like to comment a little bit. The Senator from South Carolina is interested in the secure doors.

Some of the airlines are putting secure doors on their aircraft. They are doing it currently at their own expense. I just took a flight across the country, and the cockpit door was opened six times by either the pilot or copilot on a 5½ hour flight. At least two times it was opened to provide food access into the cockpit. So that cockpit door was opened eight times during that flight.

That is the harsh reality. We do not have the capability to feed nor to provide restroom facilities for the crew. We are certainly not going to retrofit all the aircraft in the skies immediately with those capabilities in the cockpit. So we are going to have the potential risk.

While those who perhaps commute short distances feel secure because of a closed cockpit, we do not have that on a cross-country flight. That is the harsh reality.

It is also apparent, as the Senator from Arizona pointed out, that there is some difficulty in implementing the program. The idea of secure doors and the question of who pays for it, obviously, are concerns of the airline industry. How the guns are managed, if you

will, is a concern of the airlines. Their business, obviously, is reducing the amount of administrative authority they can, but our job is protecting the public.

If, indeed, history proves itself, as it appears to have done in a couple of instances, one occurred on a FedEx cargo plane. During takeoff, the crew was overpowered by an individual who was a crew member who happened to be deadheading on the flight, and he attacked them with a hammer. There was a tremendous fight in the cockpit. This aircraft was fully loaded with fuel and freight, but the crew managed to subdue this individual with the weapon they were able to take away from the individual who initiated the attack and land that aircraft safely. It was a hammer. It was very bloody. Nevertheless, it proved that the crew was willing to do whatever they could to stop that aircraft from crashing. I gather it was to crash into some of the FedEx facilities.

If we look at the concerns expressed in the general discussion about secure doors, we cannot secure the door; it is going to be opened from time to time. There is talk about changing the air pressure of the aircraft by puncturing the hull. An air marshal is obviously trained. If there is an altercation of some nature, there is as much chance of penetrating the hull by him. Evidence has shown there is not an explosion, there is a decompression, and a decompression is manageable by the cockpit crew.

As we look at the alternatives, it is clear that the airlines oppose this because they are not in the business of managing guns. Their bottom line is transporting passengers. It does create problems. But if we look at how we are implementing the security program in this country, it was not very well thought out. I am not suggesting that as an example. Nevertheless, we are looking at a first rather I should say last line of defense which is probably more correct.

We have debated this back and forth. We as legislators, and certainly as passengers, have to recognize we trust the flight crew with our very safety and security, and we should give them all the tools to complete that task. That is the reason I am standing with my friend, Senator SMITH, on this legislation. It is first and foremost an attempt to increase the level of safety aboard our commercial airliners.

My State of Alaska has many small planes. There are firearms available for various reasons: If the plane goes down or if a passenger attempts to overcome the crew. As we look at the question of guns in the cockpit, there is a great inconsistency. One is the inconsistency associated with sky marshals, and the other is associated with the realization that we would simply be arming pilots who are highly trained.

I do not think there is any question about the substance of this amendment. It provides a greater level of safety. I think most of the pilots would agree they, too, want to have this capability and are prepared to use it in an appropriate manner.

I do not take this legislation lightly. This amendment does not cavalierly attempt to hand out guns to flight crews, and wish them the best.

Because of September 11, 2001, and the tactics used by the hijackers that day, we must change the way aircraft and passengers are protected. The amendment is an important part of that effort.

As many in this body are aware, there is a large percentage of pilots who have served in the military and law enforcement. In fact, many also serve as reservists in the different branches of the military. These pilots have been trained in the use of weaponry. Why not utilize the trained personnel already on hand?

The Airline Pilots Association supports this concept and has written to the F.B.I. requesting a program to train cockpit personnel. I have heard from many pilots in Alaska and around the country that support it. So why not further enhance the chances of passenger and aircraft survival?

I applaud the administration and this Congress for moving quickly to secure cockpit cabins, adding needed Sky Marshals, improving airport perimeter security, training screening personnel, and increasing flight deck security.

But we must also afford passengers the utmost in security after the plane has cleared the runway. Arming pilots is not the only solution, but it is an important component.

The pilots know they need it. The passengers will support it. And this Congress should pass it. I encourage my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Who yields time?

The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent to add Senators TIM HUTCHINSON, CRAIG THOMAS, and STROM THURMOND as original cosponsors, and I thank my colleague from South Carolina for his cooperation. I appreciate it very much. I again thank my colleague, Senator BOXER, for her leadership, and I thank Senator REID for his cooperation as well.

Mr. HOLLINGS. I thank the Senator from New Hampshire.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

AMENDMENT NO. 4492, AS FURTHER MODIFIED

Mrs. BOXER. Mr. President, we are about to vote in 2 minutes. I am going to wrap up in 2 minutes. I send a modification of my amendment to the desk. I want to explain to my colleagues that this is a modification that has been written by Senator HOLLINGS. It will result in the cockpit door remaining closed during the flight except for mechanical emergencies or physiological emergencies.

This is an issue on which Senator HOLLINGS has been a very strong and sometimes lone voice. We are very proud to accommodate him, and we hope, therefore, he will be with us on this vote.

The PRESIDING OFFICER. Without objection, the amendment is further modified.

The amendment (No. 4492), as further modified, is as follows:

At the end of the amendment add the following:

SECTION 1. PROHIBITION ON OPENING COCKPIT DOORS IN FLIGHT.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

Sec. 44917. Prohibition on opening cockpit doors in flight

''(a) IN GENERAL.—The door to the flight deck of any aircraft engaged in passenger air transportation or interstate air transportation that is required to have a door between the passenger and pilot compartment under title 14, Code of Federal Regulations, shall remain closed and locked at all times during flight except for mechanical or physiological emergencies.

''(b) MANTRAP DOOR EXCEPTION.—It shall not be a violation of subsection (a) for an authorized person to enter or leave the flight deck during flight of any aircraft described in subsection (a) that is equipped with double doors between the flight deck and the passenger compartment that are designed so that—

''(1) any person entering or leaving the flight deck is required to lock the first door through which that person passes before the second door can be opened; and

''(2) the flight crew is able to monitor by remote camera the area between the 2 doors and prevent the door to the flight deck from being unlocked from that area.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by inserting after the item relating to section 44916 the following:

''44917. Prohibition on opening cockpit doors in flight.''

Mrs. BOXER. Mr. President, in closing this debate, I thank everyone, particularly Senator SMITH for his amazing work.

I ask unanimous consent that Senator BAUCUS be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I say to the flight attendants and the pilots who worked so hard to help us get this to a vote today: Your work will be rewarded. You are, in many cases, the last line of defense with the fact that our security checkpoints are failing, unfortunately. They are doing better, but they are not where they should be, and contraband is getting on to the planes, coupled with the fact that our military has orders to shoot down a plane that has been taken over by hijackers. Let's give this program a chance. Let's give people a chance to save their lives and the lives of the crew, the passengers and, frankly, the people on the ground.

This is important for homeland security, to make sure we are doing everything to avoid another 9/11. I ask for an aye vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, before we vote—and the vote will occur momentarily—I have spoken to the majority leader, and this will be the last vote tonight. I will also indicate the majority leader has indicated we will come in on Monday at 12 o'clock. We will have an hour of morning business, and at 1 o'clock we will vote on a judicial nomination, or if we do not work something out on the cloture motion that was filed today, we will vote on that on Monday. We will have a pro forma session in the morning, and that would ripen on Monday.

We are going to have to vote on Monday at 1 o'clock either on a judicial nomination or cloture on drought assistance.

I appreciate everyone's cooperation today. We have been able to move forward two very important amendments on this very important legislation. I have spoken with Senator THOMPSON. We have not cleared this with Senator BYRD and others. We want to make sure Senator THOMPSON has the first amendment when we come back on Monday, and following that, Senator BYRD will have the next amendment.

Mrs. BOXER. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 4492, as further modified. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. HARKIN), and the Senator from New Jersey (Mr. TORRICELLI), are necessarily absent.

Mr. NICKLES. I announce that the Senator from Kentucky (Mr. BUNNING), the Senator from Nevada (Mr. ENSIGN), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. BUNNING), would vote ''yea''

The result was announced—yeas 87, nays 6, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—87

Allard	Collins	Grassley
Allen	Conrad	Gregg
Baucus	Craig	Hagel
Bayh	Crapo	Hatch
Bennett	Daschle	Hollings
Bingaman	Dayton	Hutchinson
Bond	DeWine	Hutchison
Boxer	Dodd	Inhofe
Breaux	Domenici	Inouye
Brownback	Dorgan	Johnson
Burns	Durbin	Kerry
Byrd	Edwards	Kohl
Campbell	Enzi	Kyl
Cantwell	Feingold	Landrieu
Carnahan	Feinstein	Leahy
Carper	Fitzgerald	Levin
Cleland	Frist	Lieberman
Clinton	Graham	Lincoln
Cochran	Gramm	Lott
Lugar	Reid	Snowe
McCain	Roberts	Stabenow
McConnell	Rockefeller	Stevens
Mikulski	Santorum	Thomas
Miller	Sarbanes	Thompson
Murkowski	Schumer	Thurmond
Murray	Sessions	Voinovich
Nelson (FL)	Shelby	Warner
Nelson (NE)	Smith (NH)	Wellstone
Nickles	Smith (OR)	Wyden

NAYS—6

Chafee	Jeffords	Reed
Corzine	Kennedy	Specter

NOT VOTING—7

Akaka	Ensign	Torricelli
Biden	Harkin	
Bunning	Helms	

The amendment (No. 4492), as further modified, was agreed to.

Mr. SMITH of New Hampshire. I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4491, AS AMENDED

The PRESIDING OFFICER. Under the previous order, amendment No. 4491, as amended, is agreed to, and the motion to reconsider is laid on the table.

The amendment (No. 4491), as amended, was agreed to.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I am pleased to join with Senator BAYH in offering an amendment to the homeland security bill.

It is a straighforward amendment designed to improve and strengthen the protection of our Department of Defense installations which contain the storage and destruction facilities for our Nation's chemical agent and munitions stockpile.

Prior to September 11, no temporary flight restrictions existed for any of our Nation's chemical weapons stockpile sites. Secretary Rumsfeld took quick action after September 11 to establish temporary flight restrictions at each of these sites, but numerous violations of these flight restrictions have occurred.

In the case of the Anniston Chemical Destruction Facility and storage site, 22 violations have occurred since flight restrictions were implemented by the Department of Defense. The latest was just today when a Lear-type jet flew over the incineration facility at less than 1000 feet. Another violation that caused great concern was a night time over-flight which included 3 passes by an unidentified aircraft.

These incursions are serious matters. Current law provides for stiff penalties to be levied against those who violate restricted air space. In the case of our chemical weapons storage sites and weapons destruction facilities, we must be ever vigilant. That is what this amendment seeks to do by:

First, requiring the Secretary of Defense to review the current temporary flight restrictions to determine if they are sufficient to provide maximum protection to these facilities from potential airborne threats and to report his findings to Congress.

Second, the amendment would require the FAA to issue a report on each violation of the temporary flight restrictions which apply to these sites. Mr. President, as I have stated, very serious penalties already exist for those who violate these restrictions. Given the tremendous danger to the workers and local citizens associated with any unintentional crash or intentional act at any one of these storage sites, I believe this amendment is both reasonable and prudent in requiring the FAA to report on actions taken in response to a confirmed and properly investigated restricted airspace violation.

Lastly, in the amendment we ask the Secretary of Defense to assess the use of periodic air patrols and military flight training exercises in terms of their effectiveness as a deterrent to airspace violations or other potential airborne threats to these facilities.

While little, if anything, could be done to stop someone intent on attacking one of these storage sites from the air, we should take every step to make sure that these flight restrictions are respected and violators are punished. This amendment is about safety, enforcement of the law, and, ultimately, protection of our citizens who live in close proximity to these chemical weapons facilities.

MORNING BUSINESS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I ask unanimous consent I be allowed to proceed as in morning business.

The PRESIDING OFFICER. The Senate is in morning business.

The Senator from Alabama.

THE NOMINATION OF PRISCILLA OWEN

Mr. SESSIONS. Mr. President, we had a very sad day today. The Senate

Judiciary Committee, on a party-line, partisan vote of 10 to 9, voted down the nomination of Priscilla Owen, a justice on the Texas Supreme Court, for a position on the Fifth Circuit Court of Appeals.

Having practiced many years in Federal court, 15 years full-time as a Federal prosecutor, I care about the Federal courts. I want it to be the very best it can be. I believe deeply in the rule of law in America. I believe it is a tradition we have to cherish and turn over to our children and our grandchildren, so that it has the same strength, moral coherence, and integrity that it has always had.

In fact, most of the nations around the world today that are struggling so badly—the Third World nations—are not struggling because their people will not work or because they do not have resources. Too often, it is generally because there is no legal system that can operate where people can make loans and expect them to be repaid, or where they can own property and not have it stolen from them. So the legal system is exceedingly important.

What happened this morning—and it was particularly tragic—represents a culmination of a decision, apparently reached a year or so ago, when President Bush was elected, and three liberal activist professors—Laurence Tribe, Cass Sunstein, and Marcia Greenberger—met with the Democratic Conference to discuss judicial nominations. And they asserted that President Bush had won by only a small margin and, therefore, he did not have the same authority that other Presidents had to nominate judges, forgetting, of course, that the total vote percentage received by President Clinton, I believe, was only about 44 percent. President Bush got a larger percentage of the American vote than Clinton did.

But at any rate, these professors set about to deliberately alter the confirmation ground rules. In fact, a newspaper—I believe the New York Times—reported that they had met to discuss changing the ground rules on the nominations of Federal judges. And it was a real serious thing.

So, well, that is politics. You hear those kinds of things.

You wouldn't think that the decisions we have used since the founding of this Republic, certainly in the last 60 years of anybody's recognition here of the normal way things are done, would be changed significantly, but I am afraid we may be wrong. We may be seeing significant change. I am hopeful that is not the case. Maybe we can turn it around. Maybe it is not too late. But today's vote was very disturbing because we had one of the finest nominees ever to come before this Senate, a nominee that clearly had the votes to pass on the floor of the Senate but was voted down in committee, blocked from coming to the floor of the Senate so we could have a full airing and a full vote.

We had some hearings in the Judiciary Committee and subcommittees on how to change the ground rules. Some liberals, including law professors alleged in one of the hearings that one out of every four Supreme Court nominees during the first 100 years of this country were voted down because of ideology. We have checked that in detail and researched those allegations, and that is just not true. They suggested that the burden should lie on the nominee to prove him or herself worthy. We demonstrated that history did not support that position. They asserted that the Supreme Court of the United States is a right-wing Court and that ideology drives what they do, undermining respect for the law. I reject that characterization of the Supreme Court.

They said that the ABA ratings need to be given consideration, except in this case the nominee got a unanimously well-qualified rating, the highest possible rating of the ABA.

They said that we don't want to have a judge that would vote to overrule Roe v. Wade. We can't have a right-wing activist. And they asserted that ideology or politics is a basis for rejecting a nominee.

We had hearings on that. Lloyd Cutler, who served as counsel for two different Democratic Presidents, flatly rejected that in the hearing, made a strong statement saying this would politicize the courts. So did Griffin Bell, former Attorney General under President Jimmy Carter. They rejected this ideological approach to the judiciary, something we have never done in this Senate's history.

One thing we noticed, all of these arguments don't meet the test of logic or history or facts except one, and that was the one chosen—raw political power to vote down a nominee of extraordinary capability submitted by President Bush. We have not seen that before.

We had at one of the hearings a Democratic justice, former justice retired from the Supreme Court of Texas. He was here to support Justice Owen from Texas. He said to me after the hearing: At least for some of these nominees there was a basis to vote against them, but they have no basis to oppose Owen. They put out nothing on her.

That is a fact. Nothing was said that would undermine her ability, even if you were highly suspect of a nominee. To me, there were just no facts there. She conducted her life not politically but professionally, as a lawyer, with integrity and outstanding ability.

They said that in the first 100 years so many Supreme Court Justices were voted down on ideology. That is an absolutely untrue statement. In fact, only a few were rejected for political reasons, and sometimes those battles were pretty tough in the days of the founding of this country.

We do know that they didn't even have hearings on most of them.

They say that the burden should be on the nominee. Well, if history is to serve as a guide, we would do well to think about what we have done here. During the first 130 years of our country's history, the Senate did not even ask a nominee to come before the Senate for a hearing. The first nominee to even appear before the Senate before confirmation was Justice Harlan Fisk Stone, in 1925. Nominees did not appear regularly before the Judiciary Committee until John Marshall Harlan in 1955. Occasionally the committees asked a few nominees questions in writing, but there wasn't the kind of examinations we have today.

So it would be difficult for anyone to argue that historically we have put the burden on the nominee to prove their worthiness.

What we have always done is that the President submits people. The Senators from that home State have to approve that nominee. If they don't approve, the nominee almost universally is not confirmed. But if the home State Senators approve, it comes up before the committee, and the committee looks to see if they are extreme, if they have good integrity, if they have basic legal skills, that they have a proven record of capability and respect within the bar that would make them worthy of the position of a lifetime appointment on the bench.

The Senate is not a rubber stamp. It should not vote for every nominee, just because the President submitted that nominee. But we ought to have a basis within that traditional realm of evaluation of a nominee to vote one down. That was lacking here today.

As Senator ORRIN HATCH said: Her testimony was perhaps the finest testimony ever received in his time as chairman and ranking Republican on that committee.

Those are the facts about our history. My Democrat colleagues assert somehow that the Supreme Court of the United States is a right-wing Court and that we need a balance. We need to make sure that moderate or liberal nominees get put on for every moderate or conservative or liberal that was on there, some sort of balancing out, some sort of moderate deal. That is not the way we have done nominations. The President submits nominees. We evaluate them and see if they are worthy.

I will just ask: What is moderation? What does that mean? Does that mean you enforce half the law? You analyze it halfway? You don't make anybody mad with your ruling? You try to carve your ruling so it satisfies everybody? If the statute of limitations is run and the person wants $10,000, do you give them $5,000? Is that justice? Is that moderation? I don't think so.

This Supreme Court has faced some tough decisions. It protected the burning of an American flag and said that the act of burning a flag is free speech. The act of burning a tangible object is covered by the first amendment protection of free speech. I don't think that is good, in my personal view. But you had

people such as Justice Scalia, supposedly a conservative, voting for that with others. I think it was a bad decision. But they ruled on that, this so-called right-wing Court.

They banned voluntary school prayer at high school football games. Former Judge Griffin Bell of the 11th Circuit Court of Appeals, actually originally from the Fifth Circuit Court of Appeals, and Attorney General of the United States under President Carter, once said—perhaps in jest; perhaps not—nobody ought to serve on the Supreme Court, on the Federal bench, that doesn't believe in prayer at football games.

I don't think that is a good opinion. I don't believe a voluntary prayer at a football game violates the establishment clause of the first amendment, but that is what the Supreme Court has ruled, and many other cases along that line.

They stopped the police from using heat sensors to search for marijuana-growing equipment in houses. That was pretty much considered a liberal opinion.

They struck down a law that bans virtual child pornography, which I was disappointed to see since, as a prosecutor, I know how difficult that is going to make it for prosecutors to be successful. And they reaffirmed and expanded abortion rights to include substantial protections for partial-birth abortion, this so-called right wing Supreme Court. That is a bogus argument also.

(Mr. DAYTON assumed the Chair.)

Mr. SESSIONS. Well, they said the ABA rating was the gold standard, but that didn't help them in this argument because the ABA unanimously voted that Priscilla Owen was well qualified for the Eleventh Circuit. They had seen her practice law, they had seen her as a justice of the Texas Supreme Court, and they found that she was well qualified, giving her the highest rating. The bar association, as I recall, has 15 members of the committee that actually does that vote. Heretofore, they didn't say anything about whether you were qualified, well qualified, or unqualified. Now they tell you whether or not it was unanimous. It is hard to get 15 of them to be unanimous. They select the committee that evaluates them, and it is a fairly sizable committee. Many are civil rights attorneys, some are big law firm attorneys, some are individual practitioners, and others are officials in the State bar. It is a big committee, and it is hard to get a unanimous vote of well qualified, but she was so rated.

They said: We don't want anybody who would reverse the right of a woman to have an abortion—reverse Roe v. Wade. Well, everybody knows a judge on the Fifth Circuit cannot overrule the Supreme Court's opinions on abortion. They cannot overrule any Supreme Court decision, including Roe v. Wade. In fact, the Fifth Circuit has explicitly adopted Roe v. Wade in Planned Parenthood v. Casey. Both of those are big-time, important abortion cases. They have already affirmed those.

Priscilla Owen has never voted on or opposed Roe v. Wade, as Justice Byron White did when he was on the Court. She never called Roe v. Wade a ''heavy handed judicial intervention,'' as Ruth Bader Ginsburg, President Clinton's nominee to the Supreme Court, did. She never voted for a statute to ban abortion, as Al Gore did, or never supported a constitutional amendment to ban abortion, as DICK GEPHARDT, the would-be Speaker of the House, has done in the past. Would all of these individuals be blackballed and fail to pass a lockstep test of the Democratic majority on the Senate Judiciary Committee if they were nominated for a Federal judgeship? I think this is going a bit far.

So we have heard that we cannot have a conservative judicial activist on the court. I agree with that. You can have people who are so conservative that they force their agenda by reinterpreting the words of statutes, as well as you can have a liberal do that. The traditional conservative theory of law is that you respect the laws passed by the legislature and enforce them as written, whether you like it or not.

Traditionally, the ideology of the left—as is dominating in our law schools today, unfortunately—is that—really, today they are getting awfully cynical—the law is truly a tool of one group to oppress another group, that words don't have any finite meaning and you can make them mean whatever you want to say, and that the law is a tool for social progress and not a protection of rights, as we have understood it.

Traditionally, in the last 30 years, most of the activism has come from the left. We have actual people who assert with quite a strong conviction that if the legislature didn't act, the court had to act. Have you ever heard that? I think we hear that pretty often. But think about it. Particularly in Federal Court when you have a lifetime-appointed judge. Well, let's see. The legislature didn't act, so now we can do whatever we want to as a judge, or as the court.

Well, if the legislature did not act, and they are the duly elected representatives of the people, then in fact they have acted, haven't they? They have decided not to act on whatever political agenda somebody has. And that does not justify a judge becoming a legislator because of that.

I think this is important also. This nominee, Priscilla Owen, has just been magnificent and disciplined in her view of the law. One of the things they complained about was her interpretation of a single Texas statute, passed by the legislature—the parental notification statute. She clearly followed the legitimate sources of law in interpreting that. She read the statute clearly. She interpreted the words of the statute using the pro-abortion cases of the U.S. Supreme Court upon which the statute was based, and it was not an act of activism. In fact, Senator DEWINE carefully analyzed these matters, and in the 12 cases under this statute—and this was the biggest point made against this fine nominee's record—in 3 of them she voted with a minority of the judges on the Texas Supreme Court. Most of the time, 9 cases, she voted with a majority.

By the way, in every case that reached the Supreme Court of Texas, the Texas law was vaguely written and difficult to interpret, and it involved a situation in which a trial judge and an intermediate court of criminal appeals had both ruled that notification of a parent had to occur before an abortion by a minor could be conducted. So she was, in each instance, voting on a case in which a trial judge saw the situation firsthand, and an intermediate court of appeals had ruled in the same way Justice Owen ruled. In each case that she ruled against the majority, she ruled in favor of the intermediate court of appeals and the trial judge—not an extreme record, trust me.

We looked at this hard. Senator DEWINE's analysis of it was very thoughtful and persuasive. Well, they say, that is bad, we don't want a parent to be notified. Some states have parental consent, where a parent has to consent to an abortion for a teenager. In some States, they have to have consent to get a tattoo, or an earring, or a nose ring, but they don't need to have consent to get an abortion. All it said was they had to tell at least one parent, unless there was an excuse not to. It did not require permission of that parent. And 82 percent of the people in this country, when polled, say they favor parental notification.

So who is extreme here? Is it the group smearing her for enforcing a rather modest Texas law, or is it the nominee herself?

Actually, her study of that was very carefully done, I thought, and actually utilized definitions in the U.S. Supreme Court opinion to help clarify the definitional tools of Texas law on the correct presumption that when Texas had the parental notification law, they tried to make it compatible with the Supreme Court ruling, which is what a great judge does.

Well, only the most extreme liberal groups such as NARAL, Planned Parenthood, and the ACLU, that have been active against her, could see anything wrong in this, in my opinion.

Well, they said you can't get into politics. That is something to discuss. This nominee hardly has any politics. Senator GRAMM from Texas said when people asked her to run for the Supreme Court of Texas, she could not remember, when asked, which primary she voted in last time, Republican or Democrat.

She finished third in her class at Baylor Law School and was one of the finest litigators in Texas, well respected. When she was approached to

run, she was a single mom. She gave up a highly lucrative law practice to take on the race for the supreme court. She won, and then won again, with 84 percent of the vote. She had the endorsement of every single newspaper in Texas of any size. She was an exceptional candidate in every way.

She is not a person who is a political warrior. As Senator GRAMM said, ''I am a political warrior, I know what one is.'' This lady is not. As Senator HUTCHISON of Texas, who knows her and supports her, assures us, this is a legal professional who goes about her day trying to do the right thing.

The danger in all this, to my way of thinking, is that we are sliding into a concept that the courts in America are inherently political and they cannot be trusted to enforce the law as written. Indeed, these professors assert and many of them are teaching in law school today—and it is quite a source of debate in law school—that they believe you cannot know anything, that nothing is really knowable, that there is really no truth, that character really does not count, that there are just winners and losers. If you do not get your judge on the court, you do not win.

That is a dangerous philosophy. In fact, I raised it with Professor Laurence Tribe, the brilliant activist liberal law professor. In his written statement to our Judiciary Committee when we had hearings, he flat out said, that we might as well reject the Olympian ideal of justice under law—that an Olympian ideal was an illusory concept.

That theory is a threat to the rule of law in America, and I think we saw it played out in Committee this morning because they basically said: This lady did not agree with parental notification; we heard she was a conservative; we cannot trust her to interpret the thousands and thousands of cases that come before her. That is not true.

I practiced as a Federal prosecutor before Federal judges and tried hundreds of cases. I was there for years. There may be a case every now and then that a judge's philosophy of life—you would expect one more likely to buy this argument than that argument. But if you had the cases, if you had the law, if you had the authority, whether the judges were Republican, Democrat, liberal, conservative, routinely, day after day in my court and every court in America, judges followed that. This is a dangerous concept to be selling around here.

Yes, we have politics in this body. There is nothing in the Senate that is not involved in politics. Of course, we are a political body. That is not true in courts, and if it is, we are in big trouble.

Why should you respect a court if you do not believe they are enforcing the law? We have people who believe that rules of property ownership are ways to oppress people who do not have property by people who have property and that the enforcement of a deed is somehow an act of class warfare against the poor. If you do not own the property, you do not own it in America. They want to say you ought to get a part of it anyway. It is a dangerous philosophy we are about.

Mr. President, I will conclude. I feel deeply about this issue because what was unique about this rejection of this superb nominee who testified brilliantly in addition to having a brilliant record, what was most disturbing about this process was that she was ignored. Her answers were ignored, and she was just voted down—Raw power.

Maybe that is supposed to send a message to the President, but this is a real person who has a real family, who has dedicated her life to the rule of law. She is popular in her home State. She had the confidence of the President of the United States who was Governor of the State of Texas, and he knows the people in Texas. She has the support of KAY BAILEY HUTCHISON and PHIL GRAMM, the Senators from Texas, and she should have been confirmed.

The failure to do so troubles me because I am afraid we may be adopting this postmodernism view that nothing is knowable, that there is no truth, that there is no objectivity, and that there is no such a thing as a rule of law because it is all just a manipulation; that whoever has the power writes the laws to benefit themselves and oppress everybody else.

If that is what we are heading to, I think we have a problem. Maybe that is not so. Some have said: Are we going to retaliate? I have been asked a lot about that. Is that the way Republicans are going to do the Democrats if we get a Democratic President and he submits nominees?

Let me just say it this way: I do not give up. I am hoping that a number of the members of the Judiciary Committee maybe made premature commitments on this case, maybe did not realize the full consequences of their votes, and that we will not continue to see this kind of overt politicalization of the process. I think that should avert a historic alteration in the process by which we have dealt with judges in confirmation.

We have to maybe take a deep breath. I am very upset and most of the Republican members of our committee are very upset and wonder what happened.

Under President Clinton, only one nominee in 8 years was voted down in committee or on the floor of the Senate. We have already had two voted down in committee on a party-line vote, and in both cases, the nominee would have passed had they been on the floor of the Senate. In both cases, there was a majority vote on the floor of the Senate to pass them had they gotten out of committee.

This is not healthy. I respect the talent and ability and commitment of my Democratic colleagues on the Judiciary Committee, but they are very much a Northeast-West Coast group. They do not represent the legal thinking of a majority of Americans, much less a majority of the Senate.

This little group, by sticking together in lockstep fashion, have asserted and demonstrated a power to kill nominees before they even get a full vote, superb nominees such as Judge Pickering. He had been on the Federal bench for 12 years. He was No. 1 in his class in law school. He was well qualified by the American Bar Association for the Court of Appeals, and he was voted down.

I think it is a big deal. I am very frustrated about it. There is a lot of unease. I do not know of anything to do but to continue to go forward, continue to talk to my colleagues, ask them to back off; let's go back to the traditional respect given to Presidential nominees, and I think we can make progress there.

Some said a lot of nominees who received well-qualified ratings did not get voted on. True, most of those overwhelmingly had objections from home State Senators. As soon as the Democratic Members of Congress got the majority and Senator LEAHY became chairman, they asserted not only did they want to maintain that power, but they wanted to strengthen it further than they have in the past. I do not see how anybody can complain on the senatorial courtesy rule if they, in fact, are asserting not only should it be maintained but strengthened.

If President Bush nominates a judge from New York and Senator SCHUMER objects to that judge, that judge will not move and will not be confirmed even though that judge is voted well qualified. That is just the way it has been here. Sometimes it is unfair, but that is how it has been.

As Senator HATCH, who just came into the Chamber, who so ably chaired the Judiciary Committee, knows, that is just the way it has been. I do not see any call for weakening of that rule.

I would say we have a long way to go in the future to work through this unfortunate event. I hope we can. It would be a tragic event, indeed, if this Senate were to abandon its historical system of evaluating judges.

I thank the Presiding Officer, and I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I want to congratulate my colleague Senator SESSIONS and thank him for his kind remarks today. As usual, he is one of the most articulate and eloquent spokespeople in this country with regard to the Federal Judiciary and, of course, with regard to the law in general and the rule of law. I want him to know I have a tremendous amount of respect for him and how much I enjoy working with him on the Judiciary Committee. The Senator from Alabama adds much to the Judiciary Committee. He is a terrific addition to the Committee and will leave his mark decades from now for his service in the Senate.

Mr. President, the Senator from Alabama has made a lot of points on what happened in the Judiciary Committee today, but I wanted to take a little time, as well, to address the injustice dispensed by the Judiciary Committee against Priscilla Owen of Texas. President Bush's nominee to the Fifth Circuit Court of Appeals.

The Committee defeated her nomination today. Although I am afraid it was a deal cut long before Justice Owen's hearing occurred, in defeating Justice Owen's nomination I regret that my friends on the Committee and the Senate Democrat leadership chose the path of partisanship over friendship and fairness.

The justice my colleagues dispensed is like no other the Judiciary Committee has ever inflicted. It is incomparable to any controversy raised against any nominee, Democrat or Republican. My Democrat colleagues rejected a nominee who is unblemished in every respect but for the smears of her opponents, smears which go beyond the pale of decency, distortions which are outside the bounds of cynicism and deceptions which fall below any standard of fairness, even for Washington politics and the left-wing professional lobbyists in this town.

For the first time in history, my colleagues rejected a nominee that has received the American Bar Association's unanimous rating of well-qualified, a rating that earlier this year my friends on the other side announced to be the gold standard for judicial nominees and which, of course, they now criticize because the independent body of the American Bar Association has rated President Bush's nominees as highly qualified as any we have ever seen.

I think this vote will be long remembered and regretted on both sides of the aisle.

One sample smear against Priscilla Owen of Texas came this week in one of the most outrageously false editorials I have ever read in The New York Times, but that editorial said nothing new. The editorialists apparently used only the talking points supplied by the usual suspects in Washington. Among other falsehoods, the New York Times editorial said:

In abortion cases, Justice Owen has been resourceful about finding reasons that, despite the United States Supreme Court holdings and Texas case law, women should be denied the right to choose.

The New York Times should be ashamed of themselves—or whoever the editorial writer is who wrote this. Under the parental notice cases of which they speak, no one is denied a right to an abortion. They are absolutely wrong. Abortion rights are not implicated in the parents' right to know and to be involved in their children's most painful decision, an abortion.

Even with parental notice, every minor has a right to abortion in Texas, and no decision of Justice Priscilla Owen denies that. In fact, in Texas, minors cannot get a tattoo without parental consent, but they have an unhindered right to obtain an abortion.

Last year most members of the Judiciary Committee voted to require parental consent for 18- to 21-year-olds to get credit cards.

Such is our world, Mr. President.

This willful error by The New York Times is one example of the deceptions and distortions perpetrated on Justice Owen's exemplary record. Of course, The New York Times again repeats the falsehood that Judge Alberto Gonzalez, now our White House Counsel, called Justice Owen an activist while he was serving on the same court, when in fact the truth is that a careful review of the full record of the particular case shows he was referring to another judge who wrote another dissenting opinion. He was not referring to Justice Owen. Yet we have heard time after time the same arguments used against Justice Owen.

The New York Times was not alone in addressing Justice Owen's nomination. I am heartened to know that beyond the overwhelming support from her own home State of Texas and the scores of op-ed pieces written across the country in support of this nomination, Justice Owen's nomination to the Fifth Circuit has received editorial support from over 24 newspapers published across the Nation and across the political spectrum, including the Washington Post, the Wisconsin State Journal, the Wall Street Journal, Amarillo Globe-News, Richmond Times Dispatch, Akron Beacon Journal, The Florida Times-Union, The Philadelphia Inquirer, The Tampa Tribune, The Detroit News, The Dallas Morning News, The Denver Post, The Daily Oklahoman and the Chicago Tribune, to mention a few.

Only three newspapers, in fact, in New York, Los Angeles and San Francisco, have come out firmly against this nomination.

I ask unanimous consent that a selection of these 24 editorials in support of Justice Owen be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 24, 2002]

THE OWEN NOMINATION

The nomination of Priscilla Owen to the 5th Circuit Court of Appeals creates understandable anxiety among many liberal activists and senators. The Texas Supreme Court justice, who had a hearing yesterday before the Senate Judiciary Committee, is part of the right flank of the conservative court on which she serves. Her opinions have a certain ideological consistency that might cause some senators to vote against her on those grounds. But our own sense is that the case against her is not strong enough to warrant her rejection by the Senate. Justice Owen's nomination may be a close call, but she should be confirmed.

Justice Owen is indisputably well qualified, having served on a state supreme court for seven years and, prior to her election, having had a well-regarded law practice. So rather than attacking her qualifications, opponents have sought to portray her as a conservative judicial activist—that is, to accuse her of substituting her own views for those of policymakers and legislators. In support of this charge, they cite cases in which other Texas justices, including then-Justice Alberto Gonzales—now President Bush's White House Counsel—appear to suggest as much. But the cases they cite, by and large, posed legitimately difficult questions. While some of Justice Owen's opinions—particularly on matters related to abortion—seem rather aggressive, none seems to us beyond the range of reasonable judicial disagreement. And Mr. Gonzales, whatever disagreements they might have had, supports her nomination enthusiastically. Liberals will no doubt disagree with some opinions she would write on the 5th Circuit, but this is not the standard by which a president's lower-court nominees should be judged.

Nor is it reasonable to reject her because of campaign contributions she accepted, including those from people associated with Enron Corp. Texas has a particularly ugly system of judicial elections that taints all who participate in it. State rules permit judges to sit on cases in which parties or lawyers have also been donors—as Justice Owen did with Enron. Judicial elections are a bad idea, and letting judges hear cases from people who have given them money is wrong. But Justice Owen didn't write the rules and has supported a more reasonable system.

Justice Owen was one of President Bush's initial crop of 11 appeals court nominees, sent to the Senate in May of last year. Of these, only three have been confirmed so far, and six have not even had the courtesy of a hearing. The fact that President Clinton's nominees were subjected to similar mistreatment does not excuse it. In Justice Owen's case, the long wait has produced no great surprise. She is still a conservative. And that is still not a good reason to vote her down.

[From the Dallas Morning News, July 25, 2002]

OWEN NOMINATION; CRITICS ARE DISTORTING TEXAN'S RECORD

After hearing U.S. Court of Appeals candidate Priscilla Owen vilified in recent weeks—called everything from racist to anti-abortion to (gasp!) pro-business—the members of the Senate Judiciary Committee got the chance Tuesday to see for themselves what all the fuss is about. And, after a year in the deep freeze, the 47-year-old Texas Supreme Court justice finally got the chance to defend herself against liberal critics who have distorted her record and character in a bare-knuckled attempt to keep her off the 5th Circuit Court of Appeals.

One of the biggest distortions is that Justice Owen is a ''Judicial activist'' intent on bending and twisting statutes to fit a rigid political agenda. That is the view of Sen. Richard Durbin, a Democrat from Illinois, who tore into Justice Owen for what he said was a tendency to ''expand and embellish'' in her written opinions. Democratic Sen. Dianne Feinstein of California was more polite but just as direct when she asked Justice Owen point-blank if she was, in fact, a ''judicial activist.'' Justice Owen's response suggests that the Baylor Law School graduate is absolutely clear on what position she is applying for. She has no desire to legislate from the bench, she told Sen. Feinstein. If confirmed, she said, she would do only what the job calls for: interpret the law as written.

Justice Owen can be trusted to do exactly that, say those in Texas legal circles who know her best. Her supporters include Republicans and Democrats alike, and their

vote of confidence should count for something—especially when weighed against the smear campaign engaged by the lobbies of the left.

As for Justice Owen's personal views on abortion, or on any issue, they remain totally irrelevant. By all accounts, she has spend the last eight years on the Texas high court doing precisely what she this week promised the Judiciary Committee she would continue to do at the federal level.

Those who oppose a judicial nominee have every right to challenge the nominee. But they do not have the right to—in legal terms—''assume facts not in evidence.'' For all their political games, grandstanding and name-calling, the assembled critics of Priscilla Owen have presented nothing to discredit her.

The committee should do its best to rectify this situation by scheduling a vote without further delay and approving Justice Owen's nomination.

[From the Florida Times-Union, July 26, 2000]

A FINE CHOICE

Using legitimate criteria—judicial expertise, temperament and reputation—there is no finer candidate for a spot on a federal appeals court than Priscilla Owen, whose nomination was the subject of committee hearings this week.

Owen, an honors graduate who earned the highest grade on the bar exam, has served with distinction on the Texas Supreme Court since 1994—and is so respected that every major newspaper in Texas endorsed her successful campaign for reelection in 2000.

After she was nominated for the 5th Circuit Court of Appeals, the American Bar Association unanimously gave her the highest possible rating for the job—no small matter since the Senate Judicial Committee chairman said previously that the ABA's rating is 'the gold standard by which judicial candidates are judged.' A bipartisan group of 15 past Texas Bar presidents endorsed her nomination, as have Democratic former justices.

Still, her nomination is in trouble because she is deemed insufficiently liberal by a few fringe special-interest groups that have considerable influence with the Senate's Democratic leadership.

The main complaint revolves around cases in which young girls wanted to have an abortion without either parent's knowledge.

Under Texas law, a parent must be told unless a judge rules a girl is sufficiently mature and informed to make the decision alone.

Owen contended some youngsters were not informed sufficiently.

That, extremist, pro-abortion groups say, proves Owen is a 'judicial activist' who makes rulings based on ideology instead of what the law actually says. Never mind that they have enthusiastically supported judicial activism in the past and that Roe vs. Wade, the decision legalizing abortion, was in itself a blatant act of judicial activism.

Owen is under fire not because she is a judicial activist but because she is perceived as a conservative activist.

The facts are, however, that Owen based her opinion on U.S. Supreme court guidelines—and the author of the law said she had interpreted it the way the legislature intended.

Parental notification laws are designed not just to protect children but also to keep pedophiles from coercing their young victims into destroying the evidence before they can be arrested, tried and locked up. They are not something that the courts should routinely circumvent, except under rather limited conditions prescribed by law.

Critics complain, less vociferously, about other Owen opinions—that a person shouldn't collect insurance benefits on a house a spouse destroyed by arson, for example. That, critics insist, proves she is too pro-business. But why should an arsonist be allowed to profit from his own crime?

The appointment is being scandalously politicized. Owen deserves better. More importantly, the American people deserve better.

[From the Wisconsin State Journal, July 29, 2002]

OWEN IS QUALIFIED FOR FEDERAL BENCH

Feingold and Kohl should stop their Senate Colleagues from ''borking'' Priscilla Owen. Why should Wisconsinites care about Texas Supreme Court Justice Priscilla Owen, nominated by President Bush to the 5th U.S. Circuit Court of Appeals?

Because ''borking''—judging a judicial nominee on political and ideological grounds rather than qualifications—is ugly no matter which party is doing it and must be stopped.

Because Wisconsin's two senators, Herb Kohl and Russ Feingold, sit on the Senate Judiciary Committee, where the ''borking'' of Owen is under way. If these two Democrats take the high road and approve Owen even though (horrors!) she is a conservative, their courage could persuade their Senate colleagues to give up this nasty practice. The charge against Owen is being led by the extremist wing of the abortion-on-demand crowd, who are incensed that Owen voted several times to uphold a Texas law that allows teens to get abortions without notifying their parents only in extreme circumstances.

Polls show that a majority of Americans support parental notification laws, and the U.S. Supreme Court has ruled that such laws do not violate the terms established by Roe vs. Wade. Nonetheless, National Abortion Rights Action League President Kate Michelman called Owen ''someone who exemplifies the most extreme hostility to reproductive rights of any of the nominees that President Bush has named.'' My, my.

Other groups complain that Owen's rulings show her to be anti-consumer, anti-worker and pro-business. They say she too often voted to overturn huge jury verdicts in malpractice and product-liability cases. Considering that Texas juries' propensity for handing down outrageous verdicts makes the state a favorite filing-ground for trial attorneys pursuing dubious liability cases, Owen should be applauded for attempting to apply the brakes.

They say she is a ''judicial activist'' who will try to legislate from the bench. But when U.S. Sen. Dianne Feinstein, D-California, asked her about that charge, Owen responded ''If I am confirmed, I will do my utmost to apply the statutes you have written as you have written them, not as I would have written them or others might want me to interpret them.''

But none of this should matter much to the Senate Judiciary Committee, which is supposed to examine a nominee's qualifications, fitness for office, and temperament. No one has questioned (yet) her temperament; her qualifications include graduating cum laude from Baylor Law School, getting the top score on the Texas Bar Exam, practicing commercial litigation for 17 years before winning election to the Texas Supreme Court, and getting a unanimous ''well-qualified'' rating from the American Bar Association's Committee on the Federal Judiciary.

Every president has the right to nominate whomever he wants to the federal judiciary. The Senate has the right to grill the nominees over their qualifications, temperament, and fitness for office. Presumably it's that latter term that some senators believe justifies ''borking'' Owen on abortion rights, etc.

But it's still wrong.

Feingold knows it. That's why he made his courageous vote to confirm John Ashcroft as U.S. attorney general. Feingold didn't like Ashcroft's right-wing politics, but he believed in a president's right to choose his own nominees. Feingold was right.

Feingold and Kohl should both vote to confirm Owen, and should try to convince their colleagues to do likewise. She is well qualified, and that's all that should count.

[From the Chicago Tribune, Aug. 20, 2002]

IDEOLOGUES VS. JUSTICE OWEN

At least since the 1987 battle over Robert Bork's nomination to the Supreme Court, judicial appointments have been a major arena for conflict in Washington. It doesn't matter if the White House is in Republican hands and the Senate under Democratic control, or the other way around: Whenever a nominee can be tarred as extreme, unethical or incompetent, ideologues paint the most appalling picture in the hope of killing the appointment.

It's not a good way to find the truth or to select good judges. Instead, it fosters irresponsible distortion and discourages strong-minded individuals from accepting judicial posts, while rewarding lawyers whose chief talent is never doing anything, good or bad, to make enemies. The latest fight is over Priscilla Owen, a Texas Supreme Court justice chosen by President Bush for the 5th Circuit court of Appeals. She got the highest rating from the American Bar Association. To get that endorsement, says the ABA, a nominee ''must be at the top of the legal profession in his or her legal community, have outstanding legal ability, breadth of experience, the highest reputation for integrity and either have demonstrated, or exhibited the capacity for, judicial temperament.''

You'd never guess any of these qualities from the attacks on Owen. Senate Democrats and liberal activists have denounced her as a right-wing ideologue and a lap dog for big corporations, particularly Enron. Their favorite evidence is a quotation from fellow Justice Alberto Gonzales, now White House counsel, accusing her of ''an unconscionable act of judicial activism'' in voting to deny a minor permission to get an abortion without her parents' knowledge.

But judges accuse each other of judicial activism all the time. It's safe to assume that if Gonzales distrusted Owen's instincts, he would have lobbied his boss not to choose her. Today, he says, ''She will exercise judicial restraint and understands the limited role of the judiciary.''

In the abortion case they disagreed about the application of a Texas law that generally requires parents to be notified. Owen, dissenting from the court's decision to grant permission, made a perfectly rational case that the majority was reading the law too liberally.

As for her views about corporations, it's not surprising that a candidate picked by a conservative president has not been hostile to private business. It's true that, in running for the office, she got campaign contributions from Enron employees and then sat on cases involving the company. But people associated with Enron gave to lots of political candidates, and Owen didn't violate any ethics rules.

Owen is just one of many Bush nominees who have been inexcusably blocked from filling vacant seats on the bench—something that also happened, with equal lack of justification, to many of President Clinton's appointees.

But the only real argument against her is that she's not the sort of choice a Democratic president would make. That's no reason Bush shouldn't have picked her, or that the Senate shouldn't confirm her.

[From the Boston Globe, July 28, 2002]

THE REAL EXTREMISTS

(By Jeff Jacoby)

Why do professional abortion-rights advocates anathematize as ''antichoice'' anyone who favors even minimal regulation of abortion? Their absolutism would seen as ridiculous in almost any other area of law.

For example: Americans have a fundamental right to own and use land, but no one believes that land use should be entirely untrammeled. A great body of law has developed to regulate what people do with their land—from local zoning ordinances to common law nuisance remedies to federal wetlands and endangered-species statutes. Reasonable people can and do debate the wisdom of particular regulations. But nearly everyone agrees that there must be some restrictions on an owner's right to make use of his property. Only a crank would argue that to favor any sort of limitation at all is to be ''anti-ownership'' or an enemy of landholders.

To take another example, Americans have the constitutional freedom to express their views in public. But no one takes the First Amendment to mean that self-expression may never be restricted. Your right to free speech does not authorize you to utter slander, to threaten the life of the president, to falsely shout ''fire!'' in a crowed theater, or to give perjured testimony in court.

Yet when it comes to abortion, there is no such thing as a reasonable restriction—not to the abortion-right spokeswomen whom we invariably hear from whenever the issue comes up. A 24-hour waiting period? Preabortion counseling to discuss possible risks or alternatives? Parental notification when a minor wants an abortion? A ban on partial-birth abortions? The politician who calls for such limits or the judge who upholds them can count on being slammed as a threat to ''reproductive rights'' and a foe of ''choice.''

Just ask Priscilla Owen, the Texas Supreme Court justice nominated by President Bush to the Fifth Circuit US Court of Appeals. She is by most accounts a restrained and thoughtful judge; the American Bar Association unanimously pronounced her ''well qualified.'' But because in several teen-abortion cases she ruled that parental notification was required, she is being excoriated. Planned Parenthood calls her an ''anti-choice extremist.'' The National Organization for Women accuses her of ''disdaining women's rights.'' The National Abortion Rights Action League says she ''exemplifies the most extreme hostility to reproductive rights.''

But who are the real extremists here? In a new analysis, the Gallup News Service reports that ''in general, polling shows wide public support for parental consent laws—policies that are even more restrictive than parental notification.'' In 1996, a Gallup survey found 74 percent of Americans in favor of requiring parental consent for a minor's abortion. Since then, the level of support has gone even higher. In a 1998 CBS/New York Times poll, 78 percent wanted parental consent. And in a Los Angeles Times survey two years after that, the figure was 82 percent.

Justice Owen insists her rulings are based on Texas law, not her own personal views. But if they do reflect her personal views, she clearly has lots of company. Are more than four Americans in five ''anti-choice extremists?'' Or is it NARAL, NOW, and Planned Parenthood that are far outside the mainstream?

In poll after poll, a majority of respondents say that, as a general rule, abortion should remain legal and the government should not interfere with a woman's right to end her pregnancy. But when asked about restricting abortion in specific ways or circumstances, they often say yes.

Thus, 86 percent of Americans would make abortion illegal in the third trimester (Gallup, 2000), and 63 percent would vote to ban partial-birth abortions. Mandatory pre-abortion counseling is favored by 86 percent of the public (Gallup 1996); a 24-hour waiting period by 79 percent (CBS/New York Times, 1998). (These all presuppose a healthy mother and child; Americans overwhelming support legal abortion when the mother's health is seriously threatened or when there is likely to be a serious defect in the baby.)

It makes sense that the public does not regard these limitations as unreasonable. Americans recognize that abortion is too serious and tragic to be undertaken lightly. They know that the pro-life slogan ''Abortion stops a beating heart'' is a statement of fact. So while they support reproductive rights, they do not support unfettered abortion on demand, for any reason at any time.

But that is largely what organizations like NARAL, NOW, and Planned Parenthood do support, which is why they vigorously oppose the kinds of abortion regulations that most Americans would endorse. That is their right, of course. But why should their radical viewpoint be the standard for defining ''pro-choice?'' Prochoice is what most Americans are: In favor of the right to choose, but also in favor of common-sense limits on that right. For NARAL & Co. we need a more accurate term. I'd suggest ''pro-abortion.''

[From the Chicago Tribune, Aug. 22, 2002]

A CONSERVATIVE JUDGE'S 'JUDICIAL ACTIVISM'

Priscilla Owen is not a household name across America, but she has achieved an amazing level of notoriety among left-leaning interest groups, who regard her much as Dalmatian owners view Cruella De Vil. The Texas Supreme Court justice became their Public Enemy of the Month by doing two things: 1) compiling a judicial record that can fairly be described as conservative, and 2) being nominated to the 5th Circuit Court of Appeals by President Bush.

Those offenses were all it took to unleash a torrent of invective against Owen, whose nomination is awaiting Senate action. Ralph Neas, president of People for the American Way, denounced her as an ''ultraconservative.'' The National Abortion and Reproductive Rights Action League said she's possessed by ''a strong personal bias against the right to choose that renders her unable to follow the law.'' The most frequently heard criticism is not from liberals but from a conservative—White House counsel and former Texas Supreme Court Justice Alberto Gonzales, who is quoted as having accused Owen of ''an unconscionable act of judicial activism'' in how she handled one abortion case. That charge is supposed to prove that she's not only too conservative for liberals, but too conservative for conservatives.

What her opponents don't publicize is that from all evidence, Owen is an excellent lawyer and judge. Fifteen former presidents of the Texas State Bar wrote the Senate Judiciary Committee to announce that though ''we profess different party affiliations and span the spectrum of views of legal and political issues, we stand united in affirming that Justice Owen is a truly unique and outstanding candidate.''

The American Bar Association, which is not regarded as a dear friend by conservatives agrees. Its Standing Committee on the Federal Judiciary unanimously rated Owen ''well-qualified.'' That's the highest score the ABA evaluators give, and they don't hand it out to just anybody who can pass the bar exam and tie her own shoes.

''To merit a rating of 'well-qualified,' '' the ABA explains, ''the nominee must be at the top of the legal profession in his or her legal community, have outstanding legal ability, breadth of experience, the highest reputation for integrity and either have demonstrated, or exhibited the capacity for, judicial temperament.'' This portrait of Owen doesn't quite match the drooling Neanderthal depicted by her critics.

The judicial activist charge is also hard to square with reality. In the case cited by critics, where Gonzales affixed the label on three dissenting justices, he was clearly beholding the mote in his brother' eye while ignoring the beam in his own.

The dispute involved a 17-year-old high school student who wanted to get an abortion without notifying either of her parents, as required under Texas law. A minor may get a judge to waive the requirement if she can show that she is ''mature and sufficiently well-informed'' to make the decision alone (or to prevent abuse, which was not an issue).

''Mature'' and ''well-informed'' are not terms of mathematical precision, leaving some room for interpretation. But after hearing her testify, a trial court judge ruled that the girl was not sufficiently well-informed. An appeals court reached the same conclusion. Without the benefit of face-to-face contact with the girl, the Texas Supreme Court overruled them.

There is no ''judicial activism'' in respecting the findings of a trial court judge, as Owen did. Nor is there anything startling in her view that the law was not supposed to make waivers automatic. In fact, during the legislative debate back in 1999, supporters of the proposal envisioned the bypass mainly for instances of incest and physical abuse.

Critics insisted then that the bill made it too hard to get around the notification rule. One opposing legislator predicted that if the measure passed, not a single waiver would be granted. The legislators who originally sponsored the measure filed a brief in this case, arguing that the whole point of their legislation was to ''restore parents'' natural authority to act as chief advisors to their minor daughters who become pregnant and seek abortions'' and to assure that parents would be excluded only in ''exceptional circumstances.''

The Texas legislature, a conservative one, passed a restrictive law aimed mainly at assuring the involvement of parents, not preventing it. So how is it ''judicial activism'' for a judge to read it the way that even its critics read it during the debate? More plausibly, the activism was on the other side. Owen was not giving into the temptation to legislate from the bench, but resisting it.

If Owen had gone along with a more relaxed reading of the law, she might indeed be accused of judicial activism. But not by the people attacking her today.

[From the Wall Street Journal, September 5, 2002]

TOO SMART FOR THE SENATE

Priscilla Owen isn't exactly a household name. But what happens to her today in the Senate Judiciary Committee will say a lot about President Bush's legacy in the federal courts—to wit, whether the 10 liberal Democrats who form the majority will allow him to have one.

The Gang of Ten is scheduled to vote on Judge Owen's nomination to the Fifth Circuit Court of Appeals, and she ought to be an easy sale. Currently on the Texas Supreme

Court, she is one of the best legal minds of her generation and at age 47 is potential Supreme Court material. She's a conservative, but the liberal American Bar Association gave her its highest rating—a unanimous well-qualified.

There was a time that jurists of her intellectual caliber were welcomed by Senators of both parties, but no more. Barring a last-minute bout of conscience, Democrats seem ready to pull a Pickering—that is, kill Judge Owen's nomination in committee and deny her a vote of the full Senate. This was the treatment meted out to Charles Pickering Sr. last March, when the Mississippi judge's nomination was stopped before moderate Democrats got a chance to vote for him. If Judge Owen were to reach the Senate floor, she too would be confirmed with Democratic support.

Political war over judges isn't new, but the Judiciary Democrats are taking it to an entirely new level. Chairman Pat Leahy won't even schedule hearing dates for the best appeals-court nominees; six of Mr. Bush's first 11 picks are still waiting, 16 months after being nominated. That includes legal luminaries Miguel Estrada, Jeff Sutton, John Roberts and Michael McConnell, who, like Judge Owen, are potential Supreme Court candidates—which is their real sin in liberal Democratic eyes.

But maybe they're the lucky ones. Judge Pickering had to endure race-baiting that African-Americans in his home state deplored. D. Brooks Smith was confirmed, amid phony charges of sexism, only because Senator Arlen Specter called in chits for his fellow Pennsylvanian.

Judge Owen's fate is to be called ''anti-abortion'' because she's upheld Texas's parental-notification law—a view supported by more than two-thirds of Americans and the U.S. Supreme Court. Her critics also make the dishonest charge that even the President's own lawyer, Alberto Gonzales, who served with her on the Texas Supreme Court, thinks she's a judicial ''activist,'' Mr. Gonzales has denied this repeatedly, and as White House counsel had a big say in her nomination.

There's more at stake here than the fate of one accomplished jurist. There's also the Constitutional ''advise and consent'' process that throughout U.S. history has meant that the entire Senate should work its will. The liberal Judiciary 10 are denying to this President a Constitutional right that Presidents Reagan, Clinton and George H.W. Bush were all granted by Senates controlled by the opposite party. We hope those Senate Democrats who want to be President understand that the same thing could happen to them.

Mr. HATCH. I am heartened not just for the sake of Justice Owen, but because at her hearing I expressed alarm at the efforts by some to introduce ideology into the confirmation process. I am heartened that editorial and op-ed writers across the country reflect not only support for Justice Owen but also the near universal rejection of this misguided effort to make the independent Federal Judiciary a mere extension of the Congress, and less than the independent, coequal branch it was intended to be.

It is important to place this vote against Justice Owen's nomination in context for the American people because I know there are those who seem to justify this wrong in childlike fashion with the intellectual crutch of ''they did it, too.''

Let me say that we Republicans have never done what was done today. I voted against only one Clinton nominee, as I recall, but I did it standing on the Senate floor where the American people could see me, where I could be counted, not sitting in the shadows of the Judiciary Committee room.

Allow me to place this vote further in context, Mr. President. In this session so far, the Senate has confirmed 73 judges. There is much eagerness in asserting that this number now compares to the last three sessions of Congress during which I was Chairman. Although I am flattered to hear my record used as the benchmark for fairness, I am afraid this does not make for a correct comparison because I was never Chairman of the Judiciary Committee during any of the President's first 2 years in office.

I am glad to say that the proper comparison is not, as they say, about me. During the first 2 years of President Clinton's first term, when Senator BIDEN was chairman of the Judiciary Committee, the Senate confirmed 127 judicial nominees. Senator BIDEN achieved this record despite not receiving any nominee for the first 6 months. In fact, Senator BIDEN's first hearing was held on July 20 of that year, more than a week later than the first hearing this session, which occurred on July 11, 2001.

Clearly, getting started in July of year one is no barrier to the confirmation of 127 judges by the end of year two, but we have confirmed only 73 nominees in this session.

Senator BIDEN's track record during the first President Bush's first 2 years also demonstrates how a Democrat-led Senate treated a Republican President. Then-Chairman BIDEN presided over the confirmation of all but five of President Bush's 75 nominees in that first 2-year session. Chairman THURMOND's record is quite similar. The contrast to the present could hardly be more stark.

We are about to close President Bush's first 2 years in office having failed the standards set by Chairmen BIDEN and THURMOND, and that is nothing over which to be proud.

Some discredit Justice Owen's nomination by pointing to the few Clinton judges who did not get hearings when I was chairman, especially Jorge Rangel and Enrique Moreno from Texas. But that is not fair to me, and not truthful, and it has nothing to do with Justice Owen. Neither of those nominees had support of their home State Senators, and there were good reasons. This prevented me from scheduling a hearing for them and would have prevented any chairman, including Chairman LEAHY presently, from holding hearings.

In fact, these nominees lacked home senator in part because President Clinton ignored the Texas Senators and the Texas nominating commission in making their nominations. It was a legitimate complaint and one that my Democrat colleagues repeat now. Our process is when both State senators are against a judgeship nominee from their State, that judgeship nominee will not go anywhere.

This practice is not one I put in place. It was put in place under the Democrat leadership of this Judiciary Committee. Today, Democrat Senators from the State of North Carolina, California, and Michigan have prevented the Judiciary Committee presently from holding hearings on six of President Bush's nominees.

One final point on Rangel and Moreno and, for that matter, any of the Clinton judges confirmed or not: I am not a betting person, but if I were, I would bet that neither would trade places with Charles Pickering.

As important as anything we do is the way the Committee has treated the so-called controversial nominees. Their records have not only been damaged and distorted, they have been turned completely upside down, 180 degrees from the truth.

Charles Pickering came to this committee with a four-decades-old record of working in favor of civil rights. He testified against the Imperial Wizard of the Ku Klux Klan in the 1960s, at a time when doing so put him, his wife, and his children smack in the crosshairs of a violent and unforgiving terrorist organization. That was an act of real bravery motivated by his belief in doing right.

But what happened? The hearing room and the subsequent fundraising letters echoed with the word ''racist.'' Charles Pickering's record was completely turned upside down.

Judge Brooks Smith's true history fared no better. Judge Smith had a reputation for going out his way to assist women in the legal profession. Judge Smith received the Susan B. Anthony Award because of ''his commitment to eradicating gender bias in the court system.'' But Judge Smith's opponents did not talk about that. In fact, they worked hard to create an impression exactly opposite by focusing not on his work as a judge but on his previous membership in a small men's fishing club. Never mind that Susan B. Anthony Award.

I might add, Mr. President, that we are pleased that Judge Smith won the approval of the vast majority of the Senators when he was given a chance to be heard on the floor after long delay. I think it would be fair to give that same chance to Priscilla Owen, and I think she would fare just as well as Judge Brooks Smith.

Today, we decided the fate of another so-called controversial nominee, and once again there is a 180-degree disconnect from the truth of Priscilla Owen's record and the yarn being woven around it. We heard today about the same handful of cases—a very few of Owen cases out of thousands. And, by the way, not only have Owen opponents selected only a few cases, ignoring many, they have distorted the cases they do cite.

Today, we heard again the stale rhetoric that Justice Owen fails plaintiffs, from those who are more interested in being more just to plaintiffs—to make it more to the point, the plaintiff's trial lawyers who are their strong supporters.

In fact, there are several leading cases that Justice Owen's detractors ignore in which she ruled for plaintiffs and against manufacturers and physicians. Think about it. Sometimes a company or employer may be right, under the law. Now, I know there are those on the other side of the aisle who think that just cannot be, as they are adamantly work on behalf of the plaintiff's trial lawyers. Sometimes businesses are right.

Of course, much of the opposition of Justice Owen has been driven by interest groups that advocate for the right to abortion. And this is becoming tremendously dominant on the Democratic side because of these outside special interest groups that have immense power. Millions and millions of dollars are put into People for the American Way and other pro-abortion groups to advocate just this cause. It is terrifying to have these groups against you, but it is the right thing to stand up against them when they are wrong. In this case, they have been wrong.

These groups have said they want judges on the bench who will read and apply and follow the Supreme Court cases in the area of the right of privacy, especially in the landmark cases of Griswold, Roe, and Casey. Yet here we have Justice Owen, the first nominee we have considered in this session who as a judge read those cases, cited them, quoted them, applied them, has followed them. Yet her record was so distorted as to make it seem she was against abortion when, to this day, I don't know where she stands on that particular issue.

Justice Owen researched the case law of abortion and has faithfully incorporated Supreme Court rulings into her decisions on a related topic in an inferior court. This shows the application of precedence that should satisfy anyone interested in upholding the Supreme Court's abortion decisions or any other decision. It was the right thing for her to do because she was bound by the law of the land. Frankly, as much as some pro-life people may not like that, she upheld the law, which is what she should have done.

Yet here she was defeated this morning, primarily on that single issue, when it really was not an issue. But it was distorted, and it was manipulated, and it was used against her in, frankly, a very despicable way.

Of course, Justice Owen's critics are not praising her for following the Supreme Court law. They are attempting to portray her as a judicial activist. The truth is, she is a judicious judge who never digresses from the rules of precedence and legal construction. She always grounds her decisions in binding authority or judicial rules of decision.

Of course, the charge that she is a judicial activist is a cynical trick of words from Washington special interest lobbyists, liberal special interest lobbyists, as well as their well-funded allies in Texas who have made their careers taking positions without letting the words of the Constitution stand between them and their political objectives.

The people of Texas, almost 84 percent of them, voted for Priscilla Owen to be reelected to the State supreme court. So she has the vast majority of the people of Texas who know what a high quality person she is. Yet these people today, the people on the committee, ignored all of that.

Why are they doing so? Ironically enough, they are doing so because they do not like the Texas statute requiring parental notice in cases of abortions for children. Justice Owen voted to give the statute some meaning. It was a poorly drafted statute where they tried to please everybody, and that is always a bad statute. As she explains in brilliant fashion in her written responses to the questions of Senators, Justice Owen sought to find that meaning in Supreme Court cases that informed the Texas legislators in adopting the notice law.

This is what any good lawyer would try to do or would know to do, let alone a good judge. She sought to give the lower courts in her State that were reaching diverse results, county to county, Supreme Court guidance.

Even Planned Parenthood's lawyer understood this. She said in a 2000 interview:

> A lot of what the Supreme Court is doing is giving guidelines to the lower courts on how to interpret the parental notification law.

Justice Owen's opponents think a minor should always be able to avoid the Texas legislators' standards. It is the groups allied against Justice Owen who are the judicial activists here, the ones who are looking to achieve in the courts an outcome that is at odds with the law passed by the duly elected legislators of the State of Texas.

The Texas legislature did not pass a judicial bypass law with some exceptions. They passed a parental notice law, and they stated that they intended the court-granted exceptions to be rare. And, in fact, in practice they are rare.

This is what Justice Owen's opponents cannot stomach. So here they are in our midst. But why? The truth is that while my colleagues' vote are entirely about an abortion litmus test, I fear the opposition to Justice Owen from the abortion lobby is not at all about abortion rights, because abortion rights are affected by a mere notice statute. The opposition to Justice Owen is not really about abortion rights, it is about abortion profits.

Simply put, the abortion industry is opposed to parental notice laws because parental notice laws place a hurdle between them and the profits from the abortion clients—not the girls who come to them but the adult men who pay for these abortions. These adult men, whose average age rises the younger the girl is, are eager not to be disclosed to parents, sometimes living down the street.

At $1,000 per abortion and nearly 1 million abortions per year, the abortion industry is as big as any corporate interest that lobbies in Washington. They not only ignore the rights of parents, they also protect sexual offenders and statutory rapists.

And who are the lobbyists for the abortion industry? They are exactly the same cast that launched an attack on Justice Owen. One wonders, as columnist Jeff Jacoby did in the Boston Globe:

> Who are the extremists on this issue?

Who is out of the mainstream? It is certainly not Justice Owen. Eighty-two percent of the American people favor consent and notice laws such as Justice Owen interpreted. In fact, 86 percent in the State of Illinois favor these laws.

I will say it again. While my colleagues are applying an abortion litmus test, the assault against Justice Owen from the outside groups was not about abortion rights, it was about abortion profits. It is not about a woman's right to an abortion. It is about assailing parental laws that threaten the men who pay for abortions. It is whether parents should at least know—not even consent to, but just know when a minor child is having an abortion paid for by an adult.

But there is another interest at play here. Justice Owen was also opposed by the trial lawyers—I should say the plaintiff's trial lawyers. It is they who keep score over judges and how they rule on consumer, environmental, and personal injury cases, all of the areas of the law from which they most profit. And it is the trial lawyers, who most fund the special interest groups, who oppose all of President Bush's nominees.

I have to say, I know a number of these great plaintiff's lawyers, and a number of them are very upstanding people. But unfortunately, the vast majority are more interested in making sure they can continue to get big verdicts than they are in doing what is just.

I do not want to malign those who are decent, honorable plaintiff's lawyers. I was one of those myself, as well as a defense lawyer. But I could not stomach this type of attitude towards the law that some of them are pushing.

In almost infantile fashion, they would portray Justice Owen as pro-this or anti-that. Professor Victor Schwartz, a leading authority on torts in this country, addresses this in a letter he sent the Judiciary Committee. After reviewing Justice Owen's record, this tort law expert concludes that Justice Owen cannot be described as pro-defendant or pro-plaintiff.

The truth is that Justice Owen functions as any judge should, as an unbiased umpire. As an umpire, Justice

Owen calls the balls and the strikes as they are, not as she alone sees them and not as she wants them to be. It is silly to suggest she is pro-bat or pro-ball, pro-pitcher, or pro-batter. Of course, trial lawyers and those who shill for them have an interest in Justice Owen's score.

As she said in her hearing, she is blind to rich or poor without turning a blind eye to equity. Any Senator who met her or who attended her hearing or who read the letters from those who know her would not question her compassion and fairness.

I hoped that no Senator would cast a vote who did not meet her or who did not attend the hearing. But unfortunately I know some did.

Let's speak truth to power. Justice Owen was picked to be opposed because she is a friend of President Bush from Texas. She was opposed by an axis of profits. This axis of profits combines the money of trial lawyers and the abortion industry to fund these Washington special interest groups and spreads its influence to the halls of power in Washington and in State courts across this country.

As an aside, some estimate that one of these lobbying groups rakes in somewhere between $12 million and $15 million a year from the Hollywood crowd and others, especially the trial lawyers in this country. There is nothing on our side that even comes close to that to be able to correct the record.

The opposition against Justice Owen is intended not only to have a chilling effect on women jurists that will keep them from weighing in on exactly the sorts of cases that most invite their participation in their perspectives as women, but also on all judges in all State courts who rule on cases that trial lawyers want to win and cash in on.

Today's vote besmirched a model young woman from Texas who grew up, worked hard, and did all the right things, including repeatedly answering the call of public service at a sacrifice of personal wealth and family. I might add, she was one of the top lawyers in the country. She worked for one of the top law firms in the country. She was doing very well financially many times over what she makes as a Texas Supreme Court justice. She was a single mother who was raising her child. She goes to a church. She is in the choir in her church and helps to lead the choir. She is a decent, honorable person, and she is about as nonpolitical as anybody I have ever seen come before the Senate Judiciary Committee. Yet she has been treated very poorly indeed.

Today my Democrat colleagues voted against the American promise—the promise that anyone who works hard can serve the public trust. Such a vote, in my opinion, should not have taken place anywhere but in the light of the Senate floor, where 100 Senators would have the right to determine whether this fine woman should or should not sit on the Fifth Circuit Court of Appeals. I have to say it should have taken place in the light of the Senate floor and not in the shadows of the Judiciary Committee.

I fear, as a result of the Owen vote, a sword of Damocles has fallen on the Senate in its role of advice and consent. I hope the American people will repair the damage done to the Constitution when they vote in November.

Let me just say that when I ran for President, and I was one of those who was in the race with President Bush—whom I grew to love and respect as I was running with him or against at the time. I thought he was terrific throughout the process. I raised the issue of the importance of keeping the Federal judiciary independent, how important it is that we get the best people for these judgeship positions.

I have been on this Senate Judiciary Committee for 26 years, and I have to tell you I have not seen a better nominee come before the Judiciary Committee than Priscilla Owen. Of all the sitting judges that President Bush has nominated she is the clearly the best.

Not only is she an honorable person, but she handled herself very well at her hearing. She took a litany of bad comments from some Democrats with aplomb. She was very judicious in her approach. I have to tell you, she is one of the best people I have met in my whole time in the Senate. Yet she was treated in a shabby fashion—I think just to hurt the President, in some ways.

But, even more important than that, it was to satisfy these despicable—in this case, outside special interest groups that are extreme and far to the left of the American people. They want only people who agree with them on the courts, and do not abide with anybody who doesn't agree with them, and they have immense wealth behind them to be able to distort the wonderful record of a person such as Priscilla Owen.

I ask unanimous consent to have printed in the RECORD a statement of Senator ZELL MILLER, a Dear Colleague letter by myself concerning the New York Times editorial that I mentioned, and my published letter to the New York Times published today.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MILLER VOICES SUPPORT FOR TEXAS NOMINEE

WASHINGTON, DC.—U.S. Senator Zell Miller (D–GA) today issued the following statement on judicial nominee Priscilla Owen, whose nomination is expected to be voted on by the Senate Judiciary Committee on Thursday.

''Justice Owen enjoys bipartisan support in her home state of Texas, and she is a qualified jurist. I will support her nomination and I believe she deserves a vote by the full Senate. I really hope we will not begin the trend of rejecting nominees over narrow, single-issue litmus tests.''

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 4, 2002.

DEAR COLLEAGUE: I am taking the unusual step of writing to the entire Congress because I am outraged about an untruthful and misleading attack on Justice Priscilla Owen that appeared on today's New York Times editorial page. I am deeply concerned that such misinformation, if given serious weight by the country's decisionmakers, could undermine the integrity both of the judiciary and the branch of government in which we are privileged to serve.

As you know, Justice Owen is a Texas Supreme Court Justice whose nomination to the Fifth Circuit Court of Appeals is currently pending before the Senate Committee on the Judiciary. The editorial, entitled ''The Wrong Judge,'' wrongly accuses Justice Priscilla Owen of being ''far from the mainstream.'' No doubt that charge will stun Texas voters, who have twice elected her overwhelmingly to statewide office. It should also shock all of us who serve in Congress and who therefore know that Justice Owen, whom the American Bar Association has unanimously rated ''well qualified'' (its highest rating), undoubtedly fits well in the mainstream of American thought. If defeated, Justice Owen will become the first judicial nominee with the ABA's highest rating to suffer that fate.

The editorial also falsely claims that Justice Owen has ''ignored statutory language and substituted her own views.'' In truth, her record of applying the law as written is among the very best of any judicial nominee ever presented to the Senate. This is particularly true in her decisions concerning the Texas law requiring parental notification when their minor children obtain abortions. Contrary to the editorial, no one's right to choose was implicated, only the right of parents to have knowledge of, and an opportunity for involvement in, one of the most important decisions of their children's lives. In those cases, Justice Owen did exactly what any restrained judge should do: She applied the Texas statutory law as directed by the Supreme Court's cases including Roe v. Wade. Ironically, it is Justice Owen's opponents—the ones who accuse her of being an activist—who would have her ignore the legislature and the Supreme Court in order to reach a political result.

The New York Times uses similarly flawed analysis when it accuses Justice Owen of ''reflexively'' deciding cases in favor of ''manufacturers over consumers, employers over workers and insurers over sick people.'' This charge is not only factually without basis, but also belies the accusation of ''activism.'' Only someone obsessed with outcomes—rather than the law governing the particular cases—would be compelled by a mere counting up wins and losses among parties who have appeared before a judge. Working as a judge is like being an umpire; Justice Owen cannot be characterized as pro-this or pro-that any more than an umpire can be analyzed as pro-bat or pro-ball. A judge's job is to apply the law to the case at hand, not to mechanistically ensure that court victories go 50/50 for plaintiffs and defendants, consumers and corporations.

I endorse the words of my friend Senator Biden, a former Chairman of the Judiciary Committee, who said some years ago that: ''[Judicial confirmation] is not about pro-life or pro-choice, conservative or liberal, it is not about Democrat or Republican. It is about intellectual and professional competence to serve as a member of the third coequal branch of the Government.''

The New York Times' attack on Justice Owen's ''lack of sensitivity to judicial ethics'' is also contrary to the facts. Justice Owen went above and beyond the Texas ethics rules in her last election, voluntarily setting her own stricter guidelines for fundraising. She has also advocated reforming the Texas judicial elections process in order to protect the integrity of the courts.

Ironically, the editorial attempts to deploy against Justice Owen the words of one of her biggest supporters, Alberto Gonzales, President Bush's White House Counsel. Judge Gonzales served with Justice Owen on the Texas Supreme Court and has written publicly that she is ''extraordinarily well qualified to serve as a judge on the federal appeals court.'' Rather than focus on his ringing endorsement, however, the New York Times instead sensationalizes a disagreement that Judge Gonzales had not with Justice Owen, but rather with a whole group of judges who filed a dissenting opinion in a case involving the Texas parental consent law.

Last but not least, the editor5ial blames the Bush Administration for not getting the message ostensibly sent by the defeat of Judge Charles Pickering that it should not nominate any ''conservatives.'' It seems to imply some connection between Pickering defeat and the nomination of Justice Owen. If the editorial board would have done its homework, however, it would have learned that Justice Owen was nominated two weeks before Judge Pickering was nominated and ten months before he was defeated by a party-line vote in the Judiciary Committee.

Justice Owen is an excellent judge. Her opinions, whether majority, concurrences or dissents, could be used as a law school text book that illustrates exactly how an appellate judge should think, write, and do the people justice by effecting their will through the laws adopted by their elected legislatures. Justice Owen clearly approaches these tasks with both scholarship and mainstream American common sense. If the Congress of the United States cannot, in all its power and wisdom, detect these qualities and disentangle them from the ill-considered assertions of a powerful newspaper—inspired not by facts but by left-wing Washington special interest groups—then our institution is in trouble.

I hope you will join me in informing the American people of the truth surrounding the nomination of Justice Owen and in warning them of the grave danger posed by an uninformed politicization of the federal judiciary.

Sincerely,

ORRIN G. HATCH.

[From the New York Times, Sept. 5, 2002]

THE RIGHT JUDGE

WASHINGTON, DC,
September 4, 2002.

TO THE EDITOR: ''The Wrong Judge'' (editorial, Sept. 4) accuses Justice Priscilla R. Owen, President Bush's nominee to the United States Court of Appeals for the Fifth Circuit, of being ''far from the mainstream.'' No doubt that charge amuses Texas voters, who have twice elected her overwhelming to statewide office.

You also assert that Justice Owen has ''substituted her own views'' for the law. In fact, her record of applying the law as written is among the best of any judicial nominee ever presented to the Senate. This is particularly so in her decisions concerning the Texas law requiring parental notification when minors obtain abortions. In these cases, the right to choose was not implicated, only the right of parents to know. Justice Owen applied the Texas law as directed by the Supreme Court's cases, including Roe v. Wade.

You also attack Justice Owen's ''lack of sensitivity to judicial ethics.'' Justice Owen went above and beyond the Texas ethics rules in her last election, voluntarily setting her own stricter guidelines for fund-raising. She has advocated reforming the Texas judicial elections process.

ORRIN G. HATCH,
Senator.

Mr. HATCH. Mr. President, it is really starting to get to me that because of special interest control of this body, abortion is becoming a single litmus test issue on the part of a number of Senators in this body—not all, thank goodness, on either side, but a number of Senators. It is an important issue. There are very sincere people on the pro-choice side. There are very sincere people on the pro-life side. Both sides deserve consideration and respect.

When we get to where one single issue will determine whether a person can serve in a position in this country, such as a Federal judgeship, we know this country is in trouble; that is, whether it comes on this side or it comes on that side.

I can remember when Reagan was the President and we had control of the committees. There was a constant berating of us because they thought we might have abortion as a single litmus test issue. The fact of the matter is, we didn't. I know the question was never even asked because I know who did the betting. He happened to be a former staff member of mine. He never asked that question. They might have thought they had somebody who was pro-life, but they never asked that question. That was not even a consideration in the questions. They found out that a number of their people whom they nominated and who were confirmed were pro-choice.

During the Clinton years when I was chairman of the committee, I would not allow that single litmus test to be used on our side because I don't believe any single litmus test should be used in any way with regard to the Federal judiciary. The fact that I might disagree with a nominee on an issue that is important to me is somewhat irrelevant unless there are other really justifiable reasons for voting against the person.

I am finding that basically justifiable reasons depend an awful lot on how much force is brought to bear by outside interest groups who are basically supportive of the pro-abortion side. I have had folks on other side say it is a litmus test. Thank goodness, not many.

But that is why they wanted to keep Priscilla Owen from coming to the Senate floor—because Priscilla Owen would have passed on the Senate floor, would serve very well on the Fifth Circuit Court of Appeals, I think would please both sides of this body because of the very decent person she really is, because of the great legal scholar she is, and because of the honest and upright person she is.

We have lost that opportunity for this year. But I can tell the American people that if they will support President Bush, and if we can get control of the Senate, Priscilla Owen will make it through because she will at least have a vote. I believe she will make it through.

In that regard, I am very appreciative of the endorsement of the Senator from Georgia, Senator ZELL MILLER, of her right to have a vote on the floor and his statement that he would vote for her—a Democrat Senator. I think he recognizes that this body is becoming very polarized. It is becoming a body that may not be a great body anymore, if we keep going this way, because we are polarizing ourselves to where single litmus test issues can determine whether or not we vote and do what is right.

Frankly, we ought to be doing what is right regardless of any single litmus test issue. I know there are some on both sides who believed otherwise. But I think they are a distinct minority. But on the Judiciary Committee on this issue of abortion, I have to admit that it is coming down to the point where it is a prime issue.

My colleagues on the other side of the aisle will say they voted for people who are pro-life. That is true, because you can only do this so many times to a President's nominee. You can't get away with it very often. I hope they don't get away with it with regard to Justice Priscilla Owen. She deserves a vote on the floor.

I have to say I am reaching a point in my tenure here where I am so sick and tired of the politics of this body on judicial nominations. I am so sick and tired of the way people are treated here. That is on both sides from time to time. I really believe, barring just cause, that every President's nominee for the Federal judiciary—at least for the Circuit Courts—ought to be given a vote on the Senate floor regardless of what the Senate Judiciary Committee does. If the committee votes a person down, that should be given tremendous weight; no question about it—in this case as well. But the fact of matter is that at least the Constitution says we should have a right to consent. And it doesn't mean 10 Senators, it means 100 Senators. I believe that would be only the fair way to do it. I really believe it ought to be done whether a President is Republican or Democrat.

I wish I had made that suggestion. I did allude to it on more than one occasion on the floor during the last 6 years of President Clinton's tenure.

I have heard nothing but badmouthing about what Republicans did to President Clinton's nominees, even though half of the Federal judiciary today are Clinton judges and President Clinton himself told me that I treated him fairly. Let me tell you, there is no reason for that. President Reagan got 382 Federal judges through and confirmed. That is the most in history. He had 6 years of a Republican Senate—his own party—to help him to do that. President Clinton got 377 through—virtually the same number—and he had 6 years of a Republican Senate, an opposition party Senate which helped him to do that. I know. I was chairman during those 6 years. He was treated very fairly.

There are always those who do not make it, I have to admit. There is always a complaint about that. But that

is true whether it is Republican control of the committee or Democrat control of the committee. I would stack up our record on getting Clinton judges through against any record of the Democrats with regard to Reagan or Bush nominees.

Frankly, we are talking about circuit court nominees here who have been sitting on the nominations list now for over a year and half, some of the finest nominees in history—just to mention a few, John Roberts is being considered as a Supreme Court Justice—whether they are Democrats or Republicans. He is one of the two or three top appellate lawyers in the country who I don't think has an ideological bent.

How about Miguel Estrada, the first Hispanic to ever be put on the Circuit Court of Appeals for the District of Columbia? I don't believe he would be anything but one of the finest judges in the country; Michael McConnell, who is considered one of the two or three greatest constitutional experts in the country—a law professor.

You could go right on down the line. Deborah Cook; Jeffrey Sutton. They have all been sitting there for a year and a half because the Senate Judiciary Committee will not act on them.

I have a commitment from Senator LEAHY, and I am going to rely on that commitment, that he would get McConnell and Estrada through not only the committee but through the floor before the end of this session. We are running out of time. If he did that, certainly I would be very pleased. I take him at his word that he will try to do that. Those are two of the finest people we could possibly have as judges in this country.

I am hopeful that we will have that done before the end of this year. It is the right thing to do. I hope we can get John Roberts, Sutton, Cook, and others who have been sitting there for a year and half who I think have been very badly treated. There is no reason not, other than they know how brave all these people are.

I suspect they think they can ascertain how they are going to rule on the bench once they get there. Frankly, nobody knows how that is going to work once the person gets a lifetime appointment.

Let me just say again that one-half the Federal judiciary are Clinton judges. There is little or no reason for any complaint on the other side, even though, yes, there were some who didn't make it at the end, just as there are always 50 or more who didn't make it who were Republican nominees at the end of the first Bush administration.

By the way, John Roberts was nominated by the first President Bush. He is still sitting there. He is one of the two best appellate lawyers in the country just sitting there for a year and a half.

I might add that others, as well, have been nominated twice now and are just still sitting there after more than 10 years.

So it is time to get this out of the realm of politics and start doing what is right; and that is, the President has a right to nominate, which is the greater power. We have a right to confirm or not confirm, but that ought to be done on the Senate floor, not by 10 people who basically are, in my opinion, by and large, doing the bidding of these outside groups who have tremendous sway because of their money.

Mr. President, I yield the floor.

Mr. LEAHY. In less than 15 months the Judiciary Committee has favorably reported 80 judicial nominees and voted not to report 2.

Four conservative, Republican women have already been reported and three have been confirmed by the Senate: Sharon Prost to the Federal Circuit; Edith Brown Clement to the 5th Circuit, who was the first nominee to the 5th Circuit to get a hearing in seven years, since 1994; Julia Smith Gibbons to the 6th Circuit, who was the first nominee to the 6th Circuit to get a hearing in almost 5 years; and today the Committee voted unanimously to report Judge Reena Raggi, who is nominated to a vacancy on the 2d Circuit.

In addition, approximately a dozen more conservative, Republican women have already been confirmed to the Federal District Courts, including: Karen Caldwell, E.D. KY; Laurie Smith Camp, D.C. NE; Karon Bowdre, N.D. AL; Julie Robinson, D.C. KS; Marcia Krieger, D.C. CO; Callie Granade, S.D. AL; Cindy Jorgenson, D.C. AZ; Joan Lancaster, D.C. MN; Cynthia Rufe, E.D. PA; Joy Flowers Conti, W.D. PA; and Amy St. Eve, N.D. IL.

I appreciate that the Administration and Republicans are disappointed with the outcome of the vote on the nomination of Priscilla Owen. I want to accord other Senators respect and, in these circumstances, some leeway in their comments—even as those comments are directed personally at me and other Senators on the Judiciary Committee.

In response to their protestations, as if there were anything improper in the Judiciary Committee's consideration of the nomination of Priscilla Owen, I note that the salient difference between the vote on Justice Owen and the six and one-half years that preceded the change in majority is that Justice Owen was given a thorough and fair hearing, the Committee had a public, open and extensive debate and the nomination was then voted upon in public session. That was not true for more than a dozen nominees to vacancies on our Courts of Appeals over the last several years—several of which were left pending without a hearing or a vote for months and years. Here are just a few of those circuit court nominees with ''Well Qualified'' peer review ratings from the ABA that the Republican-controlled Judiciary Committee never accorded a vote:

James Duffy, nominated to the Ninth Circuit; Kathleen McCree-Lewis, nominated to the Sixth Circuit; Enrique Moreno, nominated to the Fifth Circuit; James Lyons, nominated to the Tenth Circuit; and Robert Cindrich, nominated to the Third Circuit. Others, like Allen Snyder, nominated to the DC Circuit, were given a hearing but was never given a Committee vote, up or down. These and scores of other nominees of the past President were defeated by the Republican decision to deny them Committee votes.

Republicans' preferred method for ''defeating'' more than 50 circuit and district court nominees rated ''highly qualified'' and ''qualified'' by the ABA and those with significant professional credentials was to deny them hearings and, for some who had hearings, to deny them Committee consideration.

To those Senators who are now contending that the ideology and possible activism of judicial nominees should have no place in Senators' consideration, I ask them to start by reviewing their own records of opposition to President Clinton's nominees, including their own votes against nominees professionally qualified. Those who voted against Margaret McKeown, Marsha Berzon, Sonia Sotomayor, Rosemary Barkett and Merrick Garland, Ray Fisher, Richard Paez, William Fletcher and Timothy Dyk to the Courts of Appeals, as well as those who held up any vote on Allen Snyder, Bonnie Campbell and the others, could ask themselves what standards they applied in so doing. The same question can be asked with respect to those who opposed and voted against Margaret Morrow, Gerry Lynch, Mary McLaughlin, Ronnie White, Ann Aiken and those who held up any consideration of Clarence Sundram or Fred Woocher and the scores of nominees never allowed a hearing.

I do not wish to embarrass other Senators, but I am struck by how the statements I have heard today are wholly inconsistent with votes and actions in the years in which they were delaying, opposing and voting against the moderate judicial nominations of a President on another political party.

I raise this consideration not as a matter of tit for tat, for we have assiduously avoided payback, but because it is Republicans who are trying to change their history and pretend that they did not oppose nominees based on what they perceived to be the ideological outlook of the nominees.

I am reluctant to quote my colleagues on the other side of the aisle who are saying something very different now than they said in the prior six years when they were blocking judicial nominees, but in light of the attacks on the Committee, some context is necessary to understand the hollowness of the charge that Committee members acted unfairly, inappropriately or in some unprecedented fashion in their consideration of the nomination of Justice Priscilla Owen.

For example, in 1996, one Republican said that he ''led the fight to oppose the confirmation of [two judges] because their judicial records indicated

that they would be activists who would legislate from the bench.'' While we may differ on whether a judge's record evidences judicial activism, Republicans can hardly now be saying that such inquiry is inappropriate.

Another Republican Senator argued in 2000 in defense of his record of stalling Senate consideration of judicial nominees voted out of the Judiciary Committee that having ''strong qualifications and personal attributes,'' being ''fine lawyers [who] are technically competent'' was not the test. He said then: ''My concern is with their judicial philosophies and their likely activism on the court. . . . Judicial activism is a fundamental challenge to our system of government, and it represents a danger that requires constant vigilance.'' He went on to say that the Senate should not defer to the President ''if there is a problem with a series of decisions or positions [judicial nominees] have taken.''

Another Republican Senator said in 1998 that the Republicans were ''not abusing our advise and consent power. As a matter of fact, I don't think we have been aggressive enough in utilizing it to ensure that the nominees to the Federal Bench are mainstream nominees.''

Yet another Republican said in 1994: ''My decision on a judicial nominee's fitness is based on my evaluation of three criteria: character, competence and judicial philosophy—that is, how the nominee views the duty of the court and its scope of authority.''

There are numerous other examples, of course, but these suffice to make the point.

I ask that my full statement in opposition to the nomination of Justice Owen from the Judiciary Committee consideration be included in the RECORD at the end of these remarks. It focuses on the merits of the nomination, as did Senator FEINSTEIN, Senator KENNEDY, Senator SCHUMER, Senator DURBIN and Senator DEWINE. A few of the statements in the two-hour debate before the Committee were not helpful to a reasoned debate, but by and large the Committee debate was on the merits. That followed an extensive hearing, that lasted six hours, which Senator FEINSTEIN chaired fairly and patiently. A thorough hearing and a fair vote is what Justice Owen's nomination received from the Committee.

The name-calling, threats, tactics of intimidation and retaliation are not helpful to the process. Holding up important legislative initiatives is harmful. Holding up ''the comma bill'' and threatening Democrats that they will be barred from Air Force One are silly.

Today the Senator Judiciary Committee reported a conservative Republican nominee to the Senate for a vacancy on a Court of Appeals. This nominee, Judge Reena Raggi, was first appointed by President Reagan and she came before the Committee with strong bipartisan support and without the divisive controversy that accompanies so many of President Bush's circuit court nominees. Judge Raggi was reported out unanimously today. Indeed, since the change in majority less than 15 months ago, the Committee has worked hard to report 80 judicial nominees to the Senate. They include a number of very conservative judges.

I have made suggestions to the White House for improving the nominations and confirmations processes but those suggestions continue to be rebuffed. I wish the White House would work with us rather than stridently insist on seeking to skew the federal courts ideologically.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in August 2001 in St. Paul, MN. Two men leaving a Ku Klux Klan rally attacked a four year old boy of mixed race. The attackers pushed the boy off his bicycle, yelled racial epithets, and punched the child in the side of the head.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

SITTING DUCKS

Mr. LEVIN. Mr. President, last week the Violence Policy Center, VPC, released a report entitled Sitting Ducks detailing the danger of the .50 caliber sniper rifle as a terrorist threat to, among other things, refineries and hazardous-chemical facilities. According to the VPC's report, the .50 caliber sniper rifle, equipped with explosive or armor-piercing ammunition, is capable of hitting a target accurately from more than a thousand yards away making it well suited to attack fuel tanks and other high-value targets from a distance.

The VPC report highlights the danger of a .50 caliber sniper rifle being used in a simple conventional attack with potentially disastrous results. The weapon is not only readily available, ''low technology'', but a .50 caliber sniper rifle is so powerful that it has been said to be able to wreck several million dollars' worth of jet aircraft with one or two dollars' worth of ammunition.

Despite its obvious power, under current law .50 caliber sniper rifles are no more regulated than hunting rifles. That is why I cosponsored Senator FEINSTEIN's ''Military Sniper Weapon Regulation Act,'' S. 505. This bill would change the way .50 caliber guns are regulated by placing them under the requirements of the National Firearms Act. This action would subject these weapons to the same regimen of registration and background checks to which other weapons of war, such as machine guns, are currently subjected. This is a necessary step to assuring the safety of Americans.

Mr. President, .50 caliber weapons are too powerful and too accessible to be ignored. Tighter regulations are needed. I urge my colleagues to support Senator FEINSTEIN's bill.

COMMEMORATING SGT. FIRST CLASS CHRISTOPHER JAMES SPEER

Mr. DOMENICI. Mr. President, as we meet here just days from the anniversary of the terrorist attacks on our country, it is my sad duty to report that another of my statesmen has lost his life in the war on terror. Sergeant First Class Christopher James Speer, a former resident of Albuquerque, NM, died on August 7, 2002 as a result of wounds he sustained during a firefight with suspected terrorists in Afghanistan. Today, I want to take a few moments to convey my condolences to the Speer family, and to talk a little bit about who this special young man was.

Christopher Speer was a 1992 graduate of Sandia High School in Albuquerque. Upon graduation, he enlisted in the United States Army and became a medical specialist. In 1994, he volunteered for and was selected for Special Forces training. After completing this training, he was assigned to the 3rd Special Forces Airborne Group at Fort Bragg, North Carolina where he served as a medical sergeant. Last spring, Christopher was sent to Afghanistan as part of a Joint Special Operations task force.

On July 27th of this year, Christopher took part in a U.S. operation aimed at confirming intelligence about enemy activities in one of the most dangerous parts of Afghanistan. During that operation, our troops were ambushed and a four-hour gunbattle ensued. During this battle, five American personnel were wounded, and one of them—Christopher Speer—lost his life. For his valor and ten years of dedicated service to country Christopher received the Soldier's Medal, the Bronze Star with ''V'' device, the Purple Heart, the Defense Meritorious Service Medal, the Meritorious Service Medal, the Army Commendation Medal and two Army Achievement Medals.

In addition to patriot, Christopher was very much a family man, as well. And for those family members who knew him best and loved him most, this September 9th will be especially difficult. Because on that day, Christopher was to have turned 29 years old. To Tabitha, his wife; to Taryn and

Tanner, his children; and to Betty, his mother, Nancy and I sent heartfelt prayers on behalf of all New Mexicans as well as the appreciation of a grateful nation.

EXPATRIATING AMERICA TO AVOID U.S. INCOME TAXES

Mr. GRASSLEY. Mr. President, my friend and colleague from Texas, in a debate on Senator WELLSTONE's government contracting amendment, criticized a proposal the Finance Committee was scheduled to markup today. The Senior Senator from Texas characterized the proposal as an effort at ''passing laws that sound like they're right out of Nazi Germany.'' Senator GRAMM went on to criticize: ''(t)he idea that somebody can't leave America and take their property with them, that they've got to pay a tax in order to get their property out of America.''

Mr. President, as the ranking Republican member of the Finance Committee and a participant in crafting this provision, I felt compelled to respond. First of all, I'm proud to serve on the Finance Committee. When someone characterizes a bipartisan Finance Committee proposal as something ''right out of Nazi Germany,'' I'm going to be disturbed.

Tax-motivated expatriation activities are something that troubles me. All you have to do is look at the infamous case of Marc Rich. You will recall Mr. Rich's case came to light in the rush of pardon applications during the waning hours of the Clinton Administration. Mr. Rich reportedly left the U.S. to avoid U.S. taxation and sought a pardon with respect to criminal indictments on, among other things, criminal tax charges.

Mr. President, there is a major principle at stake here. A key premise in our tax system is that those individuals and corporations that derive financial benefits from economic activity that is, as the tax law says, ''effectively connected'' with the United States, should be taxable on that income no matter where their domicile is. Any alternative to this concept would result in U.S. persons bearing a larger burden of Federal taxation than a foreign person earning a livelihood here. America and her major trading partners recognize this principle. It is reflected in the tax laws of our trading partners and the international tax treaty network.

Let's take a look at current law. For individuals that expatriate, an income tax is imposed on appreciation in the assets of the expatriate, on a 10 year going forward basis, if the expatriate is leaving the U.S. with the ''principal purpose'' of avoiding U.S. income tax. For purposes of this current law rule, expatriates are deemed to have expatriated with a principal purpose of avoidance of U.S. income tax in two cases. In the first case, the deemed rule applies if the expatriate had, on average, $100,000 of net income, for the five years at the time of expatriating. In the second case, the deemed rule applies if net worth of the expatriate exceeds $500,000. In the case of corporations, the appreciation in assets transferred offshore is taxable at the time of transfer.

So, Mr. President, it is clear that, under our current tax policy, individuals and corporations that attempt to either leave or transfer assets are taxable when they leave the U.S. Frankly, the Finance Committee views the so-called ''inversion'' transactions as a loophole that undercuts current law principles. It is on that basis, closing an insidious loophole, that the Finance Committee recently reported legislation to curtail inversion transactions.

Similarly, in 1995 and 1996, the Finance Committee, and full Senate, sought to plug the loophole on the individual expatriation level. A proposal virtually identical to the one criticized by Senator GRAMM today, was passed, on several occasions during those two years. That proposal did not become law because the Senate, with much reluctance, receded to the House in conference. The House proposal aimed to tighten the 10 year rule.

The Chairman and Ranking Member have revived the Finance Committee expatriation proposal because of concerns about the effectiveness of current law. In fact, the Joint Committee on Taxation's estimate of this proposal appears to confirm that the long-standing tax policy with respect to individual expatriation will be better served by the Finance Committee approach.

Under the Finance Committee proposal, individuals that expatriate would, as the Senator from Texas said, be taxable on gain in appreciation in U.S. assets when they leave America. This proposal would replace the current law regime described above. The Finance Committee proposal, is hardly ''right out of Nazi Germany.'' It strengthens long-standing tax policy. The Senate has spoken favorably on it on many occasions.

So, Mr. President, let's keep our eye on the ball. Current law, not a putative Nazi regime, preserves the fairness of U.S. tax system. The Finance Committee proposal makes sure the fairness of the U.S. tax system is strengthened by closing loopholes.

SUCCESS AT VINCA

Mr. DOMENICI. Mr. President, I rise to remind my colleagues that an important milestone in our progress toward reducing the risks of proliferation of weapons of mass destruction took place about 2 weeks ago.

Events like September 11 would have been far worse if terrorists had access to weapons of mass destruction. Since September 11, appreciation of this threat has increased dramatically. Many of us have spoken on the need to rein in the forces of international terrorism and any possibility that they may gain the use of such weapons.

The milestone to which I refer is the successful removal of enough weapons-grade uranium from the Vinca Institute of Nuclear Sciences near Belgrade, Yugoslavia to make more than two nuclear bombs. This removal was accomplished through coordination among government and private groups, including contributions from Yugoslavia and Russia, the International Atomic Energy Agency, and the Nuclear Threat Initiative.

I especially salute the contributions made by the Nuclear Threat Initiative, headed by Ted Turner and our former colleague Senator Sam Nunn. This episode represents another critical effort from the NTI. I'm very honored to serve on the Board of the NTI, along with Senator LUGAR. There will always be aspects of international efforts that are difficult to handle through government channels, where the private resources of the NTL may be vital.

But even as we congratulate ourselves over this victory, we need to recognize that it is very small in the overall scale of the problem. Estimates are that weapons-grade uranium exists at over 350 sites in over 50 countries. Some of these have very small quantities, but many of these locations have enough material for one or more bombs. Some of these sites include research reactors, provided by either the United States or the Soviet Union, fueled by highly enriched uranium which could be diverted for weapons use.

And we also need to examine why it required such complex coordination to accomplish this work and explore how Congress can simplify the process in the future. This part of the puzzle has a much simpler solution, because the tools to accomplish this are now part of the Senate-House conference on the Armed Services authorizing legislation.

Let me briefly explain why the Vinca operation required so much coordination. The Yugoslavian government very logically required that any Vinca solution address both fresh fuel and spent fuel from their research reactor. The fresh fuel was highly enriched uranium, and our government was able to assist because it represented a proliferation threat for weapons of mass destruction. That cooperation is authorized through the 1991 Nunn-Lugar and the 1996 Nunn-Lugar-Domenici Legislation.

But the spent fuel at Vinca, which is not useful for making a nuclear weapon, could pose both an environmental concern as well as a dirty bomb threat, depending on its level of radioactivity. The former represents work that is clearly beyond the authorization of our Government's nonproliferation mission and the latter represents work that is not authorized.

Now since September 11, there have been volumes of testimony on the threat posed by highly radioactive materials and their potential use as dirty

bombs. But today, despite these concerns, there are no statutes which address the government's authority to offer help to other countries regarding dirty bomb threats.

I am pleased to note that the Domenici-Biden amendment to the Senate Armed Services legislation provides authorizations to enlarge the ability of the government to step into such situations. With final passage of that amendment in the Armed Services legislation, we can provide important new tools to our government.

Under that amendment, programs to address dirty bomb issues are specifically authorized, including assistance to any country requesting our aid. And of equal importance, programs to broaden our ability to address fissile material issues around the world, not just associated with the former Soviet Union, are authorized along with new approaches to speed up the conversion of highly enriched uranium to material unusable for weapons.

Even with this amendment, I am sure there will be many opportunities for private groups, like the NTI, to step in and plug gaps in Government programs. But with this amendment, we will vastly simplify future operations at the hundreds of remaining sites.

The Domenici-Biden amendment enjoyed broad support in the Senate, and I appreciate that Senators LUGAR, LANDRIEU, HAGEL, CARNAHAN, MURKOWSKI, BINGAMAN, and LINCOLN joined us in introducing it.

It is my hope that the success at Vinca, along with the sobering realization that we need to repeat this success hundreds of times to fully address the threat of proliferation of materials suitable for nuclear bombs, will encourage the Conferees from both the House and the Senate to ensure that provisions of the Domenici-Biden amendment are in the Armed Services authorization bill that will eventually emerge from Conference.

ADDITIONAL STATEMENTS

THE 38TH ANNIVERSARY OF THE WILDERNESS ACT

• Mr. FEINGOLD. Mr. President, today, I commemorate the 38th Anniversary of the Wilderness Act of 1964, which was signed into law on September 3, 1964, by President Lyndon B. Johnson. The Wilderness Act of 1964 established a National Wilderness Preservation System ''to secure for the American people of present and future generations the benefits of an enduring resource of wilderness.'' The law reserves to Congress the authority to designate wilderness areas, and directs the Federal land management agencies to review the lands under their responsibility for their wilderness potential.

The original Wilderness Act established 9.1 million acres of Forest Service land in 54 wilderness areas. Now, the wilderness system is comprised of more than a 100 million acres that are administered by four Federal agencies: the Forest Service in the U.S. Department of Agriculture, and the Bureau of Land Management, the Fish and Wildlife Service, and the National Park Service in the Department of the Interior.

As we in this body know well, the passage and enactment of legislation of this type is a remarkable accomplishment. It requires steady, bipartisan commitment, institutional support, and direct leadership. The United States Senate was instrumental in shaping this very important law, and this anniversary gives us the opportunity to recognize this role.

I have been very pleased to see this body return to the tradition of designating wilderness since the 35th anniversary of the act in 1999. The 106th Congress passed, and President Clinton signed, a total of eight wilderness bills adding more than 1 million acres of public land to the National Wilderness Preservation System. This is the largest number of acres of wilderness added to the system since 1994 and is a stark contrast to the 105th Congress, which did not enact any wilderness designations.

While the 107th Congress may not surpass the wilderness achievements of the 106th, there are a number of wilderness bills pending in the 107th Congress, several of which are likely to become law before the end of the year. The designation of the James Peak Wilderness in Colorado and additions to the Black Elk Wilderness in South Dakota have already been approved by Congress and signed into law by President Bush. Bills designating new wilderness areas in Washington, Nevada, and Puerto Rico are likely to move forward this fall, while others, such as those to designate wilderness in Washington State and California, may see hearings or other congressional action.

Many would agree that more must be done to protect our wild places, but much has been done already. In commemoration of anniversaries like this one, the Senate should celebrate our accomplishment, on behalf of the American people, in the protection of these wild places.•

HONORING EARLEEN ALLEN FRANCIS

• Mr. BUNNING. Mr. President, I have the privilege and honor of rising today to recognize Ms. Earleen Allen Francis of Clinton, KY. Last month, Ms. Francis was presented with a certificate of honor for her military service as an Army Nurse during WWII by the Kentucky Department of Veteran Affairs.

Ms. Francis, now 91 years young, is among fewer than 20 survivors of the group of about 60 Army and Navy nurses captured by Japanese forces after the fall of Corregidor, a small fortified island in the Philippines.

In 1942, Japanese troops advanced on the Bataan peninsula. The Army and Navy nurses stationed at Bataan were evacuated to Corregidor as a safety precaution. However, shortly after being moved, Japanese troops stormed the small island and captured 20 of the 85 nurses, including Earleen Allen Francis. For three long and grueling years, Earleen and the 19 other nurses were starved and locked up by their captors. Their freedoms were stripped from them in the blink of an eye. In many ways, Earleen never quite recovered from this horrific time period in her life.

Ms. Francis' story has been told in books and on television and she was even honored by President Reagan in 1983 for her service to America. It is important that her story continues to be told.

I believe it is vital that we as a nation never forget about heroes like Earleen Allen Francis. Sometimes, we are forced to fight and die for our freedom and the continuation of our unique way of life. Ms. Francis personally sacrificed a large portion of her life to ensure that future generations of Americans are able to enjoy the freedoms she had stripped away from her for 3 years.

Now more than ever, we must learn from the sacrifices others have made. Terrorist states and organizations around the globe are striving to take the word freedom out of America's vocabulary. These terrorists view the world in simple terms of black and white; Islam is on the good side, and the infidels—America, Israel, and the entire Western World—are on the bad side. Freedom and democracy don't always come easy. We sometimes have to fight for what we believe in and stand for.

I ask that my fellow Senators join me in honoring Earleen Allen Francis for her sacrifice and commitment to America—the land of the free.•

IN RECOGNITION OF THE MARIN CONSERVATION CORPS

• Mrs. BOXER. Mr. President, I rise to recognize the achievements of the Marin Conservation Corps, MCC, the oldest local, private, non-profit conservation corps in the United States.

Twenty years ago the winter of 1982 brought severe flooding to much of Marin County. Concerned citizens led by Richard Hammond took action by going out and battling the winter storms and working to protect the neighborhoods and natural habitats that were at risk. Since I was a member of the Marin Board of Supervisors at that time, I well remember them.

From this community effort the Marin Conservation Corps was born. It identified its mission as developing the youth of Marin County by providing meaningful employment, education and training opportunities through projects that conserve natural resources, deliver human services and respond to public emergencies.

In the 20 years since its founding, more than 3,000 corps members have

participated in environmental service and educational programs. Youth and young adults between the ages of 11 and 30 receive service and educational opportunities. Participants in MCC may earn their high school diplomas through the MCC charter school, enroll in AmeriCorps programs or pursue lifelong learning programs, gaining valuable education and job training while learning the importance of community service.

Community service projects have included building and maintaining Marin County's hiking trails, clearing and disposing of highly flammable brush throughout Marin to prevent fire hazards, teaching environmental education classes to thousands of students in the Marin County public schools, restoring and clearing creeks and waterways to prevent flooding, establishing recycling programs, and collecting over one million pounds of recyclables from approximately 250 bins that MCC members have built and placed throughout the county.

In the year 2000 the California Charter Academy presented its ''Outstanding Program Award'' to the Marin Conservation Corps, recognizing MCC's exceptional education program. Programs such as the Marin Conservation Corps enrich our people and our communities and provide a model for similar efforts across our land.●

CELEBRATION OF LAO VETERANS OF AMERICA, MICHIGAN CHAPTER, DAY

● Mr. LEVIN. Mr. President, this weekend the Lao Veterans of America, Michigan Chapter, will gather to commemorate Lao Veterans of America Recognition Day. This tribute is an excellent opportunity to show our appreciation of the Lao people's courageous efforts during the Vietnam War, their love of the United States and their selfless heroism.

During the Vietnam War, thousands of Hmong and Laotian soldiers fought alongside the American forces as part of the United States Secret Army. In fact, the American public only recently learned about the Lao people's courageous efforts throughout the conflict in Vietnam. The Lao veterans served bravely and selflessly from 1961 to 1975 as they risked their lives to avert the spread of Communism throughout the region. They not only fought willingly and valiantly alongside United States forces to prevent the North Vietnamese Army from entering South Vietnam, but also proved to be invaluable in the effort to rescue downed American soldiers in the region. Their heroic actions saved countless American lives. The Lao Veterans and their families deserve our highest respect and gratitude.

It is estimated that at least 35,000 Laotian people lost their lives during the Vietnam War. Over 50,000 Lao were wounded and thousands more are still listed as missing in action. Throughout the past twenty-seven years, many of the survivors and their families have immigrated to the United States and many Laotian families currently reside in my home state of Michigan. The transition to the United States has not been easy for many of these immigrants, but like many other immigrant groups they have grown and prospered in their new home. It is important that we demonstrate our appreciation for the courageous actions of the Laotian people.

The Lao Veterans of America, Michigan Chapter, their families, friends, and supporters will gather on Saturday, September 7, 2002, to commemorate Lao Veterans of America Day. I know that my Senate colleagues will join me in saluting the Lao veterans' brave and heroic efforts and in recognizing their actions on behalf of the cause of freedom.●

CELEBRATED ARTIST AND NATIVE TENNESSEAN HUBERT SHUPTRINE

● Mr. FRIST. Mr. President, it is a wellspring of pride for the people of Tennessee that Hubert Shuptrine is a native son. Born in Chattanooga in 1936 and graduated from the University of Chattanooga in 1959 with a degree in fine arts painting, Shuptrine is one of the most celebrated American painters and watercolorists of the last several decades.

From the Low Country of the Carolinas to the Hill Country of Texas to the Great Smoky Mountains of Tennessee, Hubert Shuptrine's paintings have captured the rustic beauty of the American South. His love for the people of these places—and the places themselves—shines so strongly that one cannot help but share his affection.

What lends such power to Shuptrine's paintings is that they are not conjured from his mind, but grounded in truth. He traveled more than 15,000 miles to meet and talk with the people of the South when illustrating his first and highly successful book, Jericho: The South Beheld.

With a stroke of light, a sliver of shadow or a strategically placed prop, Shuptrine sketches the life stories of his subjects. They are pure, simple and unrushed people—a former field hand resting on her front porch, a widower centenarian living off his land, a basket weaver practicing her craft.

Shuptrine's wife, Phyllis, once said, ''A good portrait is like a biography.'' Clearly Hubert Shuptrine has adhered to this code throughout his career. He is an exceptional biographer not only of people of the South, but the South itself.

Though the South has changed irreversibly since Jericho was published nearly 30 years ago, the truth and beauty of the people and places of that time will never be lost. For it has been captured and will be honored in perpetuity by a native son of Tennessee, Hubert Shuptrine.●

FARRAGUT NAVAL TRAINING STATION

● Mr. CRAIG. Mr. President, I rise today to recognize the 60th anniversary of the Farragut Naval Training Station.

Mr. President, over the past year, Americans have rediscovered the importance of our military and renewed their patriotism for our country. I am sure these were not reactions the terrorists desired.

We were once again reminded that millions of our fellow Americans have fought, and many died, for the freedoms we enjoy. Freedoms our Founding Fathers found to be self-evident—freedoms we have been fighting to retain ever since, here and abroad.

World War II was one of the most significant of those fights, and this Saturday, in Idaho, we are looking back and recognizing the contribution Farragut Naval Training Station made to our efforts. At Farragut, the U.S. Navy built the second-largest naval training facility in the world. Representative of the work ethic evident across America during WWII, 22,000 men, many of them Idahoans, united together and built 776 facilities across 4,000 acres in just 9 months.

Then, in just 15 months, Farragut trained nearly 300,000 recruits to be sailors.

This Saturday, September 7, 2002, many of those graduates and personnel will be returning to celebrate the 60th anniversary of Farragut Naval Training Station.

Just like 60 years ago, they will come from all corners of the country and will arrive with varied memories and expectations. But, one thing is for sure, they will all come because their experience at Farragut affected their lives in profound ways.

I am proud and grateful for the men and women who trained and served at Farragut Naval Training Station. Their sacrifice for our freedoms is priceless. As the years go by, fewer and fewer veterans of WWII are around to hear our thanks. For those who are, I hope they hear us loud and clear: Thank you. We are all so grateful.●

MESSAGES FROM THE PRESIDENT

Messages from the president of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:25 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1070. An act to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to carry out projects and conduct research for remediation of sediment contamination in areas of concern in the Great Lakes, and for other purposes.

H.R. 3287. An act to redesignate the facility of the United States Postal Service located at 900 Brentwood Road, NE, in Washington, D.C., as the ''Joseph Curseen, Jr. and Thomas Morris, Jr. Processing and Distribution Center''.

H.R. 5012. An act to amend the John F. Kennedy Center Act to authorize the Secretary of Transportation to carry out a project for construction of a plaza adjacent to the John F. Kennedy Center for the Performing Arts, and for other purposes.

H.R. 5207. An act to designate the facility of the United States Postal Service located at 6101 West Old Shakopee Road in Bloomington, Minnesota, as the ''Thomas E. Burnett, Jr. Post Office Building''.

H.R. 5308. An act to designate the facility of the United States Postal Service located at 301 South Howes Street in Fort Collins, Colorado, as the ''Barney Apodaca Post Offcice''.

The message also announced that the House has agreed to the following concurrent resolution:

H. Con. Res. 183. Concurrent resolution expressing the sense of Congress regarding the United States Congressional Philharmonic Society and its mission of promoting musical excellence throughout the educational system and encouraging people of all ages to commit to the love and expression of musical performance.

At 1:36 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate.

H.R. 4727. An act to reauthorize the national dam safety program, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated.

H.R. 1070. An act to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to carry out projects and conduct research for remediation of sediment contamination in areas of concern in the Great Lakes, and for other purposes; to the Committee on Environment and Public Works.

H.R. 4727. An act to reauthorize the national dam safety program, and for other purposes.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 183. Concurrent resolution expressing the sense of Congress regarding the United States Congressional Philharmonic Society and its mission of promoting musical excellence throughout the educational system and encouraging people of all ages to commit to the love and expression of musical performance; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–8526. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Removing Dancy and Robinson Tangerine Varieties from the Rules and Regulations'' (Doc. No. FV02–905–3 IFR) received on August 12 , 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8527. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Fluid Milk Promotion Order; Final Rule'' (Doc. No. DA–02–02) received on August 12, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8528. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Milk in the Mideast Marketing Area—Interim Order—Implements the Amendments to the Mideast Milk Order. Has Received Producer Approval'' (Doc. No. DA–01–04; AO–361–A35) received on August 12, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8529. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Raisins Produced from the Grapes Grown in California; Decrease in Desirable Carryout Used to Compute Trade Demand'' (Doc. No. FV02–989–6 IFR) received on August 12, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8530. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Papayas Grown in Hawaii; Suspension of Regulations'' (Doc. No . FV02–928–3 FR) received on August 12, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8531. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determination'' (44 CFR Part 67) received on August 15, 2002; to the Committee on Banking, Housing, and Urban Affairs

EC–8532. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' (44 CFR Part 67) received on August 15, 2002; to the Committee on Banking, Housing, and Urban Affairs

EC–8533. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' (44 CFR Part 65) received on August 15, 2002; to the Committee on Banking, Housing, and Urban Affairs

EC–8534. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' (Doc. No. FEMA–D–7525) received on August 15, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8535. A communication from the Assistant to the Federal Reserve Board, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Regulation T (''Credit by Brokers and Dealers''); List of Foreign Margin Stocks'' received on August 19, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8536. A communication from the Assistant General Counsel for Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Public Housing Agency Plans: Deconcentration—Amendment to ''Establishment Income Range'' Definition'' (RIN2577–AC31) received on September 3, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8537. A communication from the Assistant General Counsel for Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Administrative Wage Garnishment'' (RIN2501–AC85) received on September 3, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8538. A communication from the Assistant General Counsel for Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Temporary Assistance for Needy Families (TANF) Program; Conforming Changes to Annual Income Requirements for HUD's Public Housing and Section 8 Assistance Programs'' (RIN2501–AC77) received on September 3, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8539. A communication from the Assistant General Counsel for Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Implementation of the Electronic Freedom of Information Act'' (RIN2508–AA12) received on September 3, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8540. A communication from the Assistant General Counsel for Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Requirement of HUD Approval Before a Grantee May Undertake CDBG-Assisted Demolition of HUD-Owned Housing Unit'' (RIN2506–AC10) received on September 3, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8541. A communication from the President of the United States, transmitting, pursuant to law, the Periodic Report on the National Emergency with Respect to Terrorist Who Threaten to Disrupt the Middle East Peace Process that was declared in Executive Order 12947 of January 23, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–8542. A communication from the President of the United States, transmitting, pursuant to law, a notice that the continuation of emergency regarding export control regulations is to continue beyond August 17, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8543. A communication from the Vice Chairman of the Export-Import Bank, transmitting, pursuant to law, a report relative to

a transaction involving U.S. exports to the Republic of Korea; to the Committee on Banking, Housing, and Urban Affairs.

EC–8544. A communication from the Vice Chairman of the Export-Import Bank, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Taiwan; to the Committee on Banking, Housing, and Urban Affairs.

EC–8545. A communication from the Vice Chairman of the Export-Import Bank, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC–8546. A communication from the Vice Chairman of the Export-Import Bank, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Thailand; to the Committee on Banking, Housing, and Urban Affairs.

EC–8547. A communication from the Deputy Secretary, Division of Corporation Finance, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Certification of Disclosure in Companies' Quarterly and Annual Reports'' (RIN3235–AI54) received on September 3, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8548. A communication from the Deputy Secretary, Division of Market Regulations, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Customer Margin Rules Relating to Security Futures'' (RIN3038–AB71) received on August 12, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8549. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska, Closure of Pelagic Shelf Rockfish in the Central Regulatory Area for the Gulf of Alaska'' received on August 15, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8550. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Pelagic Longline Fishery; Shark Gillnet Fishery; Sea Turtle and Whale Protection Measures. Final Rule'' (RIN0648–AP49) received on August 15, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8551. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska—Closes Western Regulatory Area, Gulf of Alaska, for ''Other Rockfish'' received on August 15, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8552. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; End of the Primary Season and Resumption of Trip Limits for the Shore-based Fishery for Pacific Whiting'' received on August 15, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8553. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Closure of the Sablefish Fishery by Vessels Using Trawl Gear in the Central Regulatory Area of the Gulf of Alaska'' received on August 15, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8554. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska—Closes Pacific Ocean Perch Fishery in the West Yakutat District, Gulf of Alaska'' received on August 15, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8555. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska—Closes West Yakutat District of the Gulf of Alaska for Pelagic Shelf Rockfish'' received on August 15, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8556. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Adjustment 3-Adjustment of the Commercial Fishery from the U.S.-Canada Border to Cape Falcon, OR'' received on August 15, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8557. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Closure of the Pacific Ocean Perch Fishery in the Western Regulatory Area of the Gulf of Alaska'' received on August 15, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8558. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Removal of Commercial Haddock Daily Trip Limit'' received on August 15, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8559. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Adjustment 2-Closure of the Commercial Fishery from U.S.-Canada Border to Cape Falcon, OR'' received on August 15, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8560. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska, Closure of the Northern Rockfish in the Central Regulatory Area for the Gulf of Alaska'' received on August 15, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8561. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska—Closes Northern Rockfish Fishery in the Western Regulatory Area, Gulf of Alaska'' received on August 15, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8562. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; USCGC EAGLE Port Visit-Salem Harbor, MA'' ((RIN2115–AA97) (2002–0173)) received on August 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8563. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; (including 2 regulations)'' ((RIN2115–AE47) (2002–0079)) received on August 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8564. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Oklawaha River, Marion County, FL'' ((RIN2115–AE47) (2002–0076)) received on August 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8565. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Salem Heritage Days Fireworks, Salem, Mass'' ((RIN2115–AA97) (2002–0172)) received on August 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8566. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Passaic River, NJ'' ((RIN2115–AE47) (2002–0075)) received on August 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8567. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; (Including 2 Regulations)'' ((RIN2115–AA97) (2002–0174)) received on August 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8568. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Seabrook Nuclear Power Plant, Seabrook NH'' ((RIN2115–AA97) (2002–0175)) received on August 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8569. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area and Safety and Security Zone; New York Marine Inspection Zone and Captain of the Port Zone'' ((RIN2115–AE84) (2002–0012)) received on August 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8570. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; Atlantic Ocean, Point Pleasant Beach to Bay Head, NJ'' ((RIN2115–AE46) (2002–0028)) received on August 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8571. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; (Including 2 Regulations)'' ((RIN2115–AA97) (2002–0176)) received on August 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8572. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Pipeline Safety: High Consequence Areas for Gas Transmission Pipelines'' (RIN2137–AD64) received on August 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8573. A communication from the Chief Counsel, National Telecommunications and Information Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Mandatory Reimbursement Rules for Frequency Band or Geographic Relocation of Federal Spectrum—Dependent System'' (RIN0660–AA14) received on August 15, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8574. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Bluefish Fishery—Final Rule'' (RIN0648–AP59) received on August 15, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8575. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; Precious Corals Fisheries; Harvest Quotas, Definitions, Size Limits, Gear Restrictions, and Bed Classification'' (RIN0648–AK23) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8576. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Brake Performance Requirements for Commercial Motor Vehicles Inspected by Performance-Based Brake Testers'' (RIN2126–AA46) received on August 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8577. A communication from the Assistant Administrator, Office of Oceanic and Atmospheric Research, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Sea Grant National Strategic Investments in Aquatic Nuisance Species, Oyster Disease, and Gulf of Mexico Oyster Industry: Request for Proposals for FY 2003''; to the Committee on Commerce, Science, and Transportation.

EC–8578. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Rate-of-Progress Emission Reduction Plans for the Boston-Lawrence-Worcester Serious Area'' (FRL7268–7) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8579. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri'' (FRL7269–2) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8580. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Kansas'' (FRL7270–4) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8581. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to Tennessee Implementation Plan'' (FRL7270–6) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8582. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Approval and Promulgation of Air Quality Implementation Plans for the State of Montana; Revisions to the Administrative Rules of Montana'' (FRL7261–1) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8583. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans North Carolina: Approval of Revisions to Open Burning Regulation With the Forsyth Country Local Implementation Plan'' (FRL7206–9) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8584. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Indiana'' (FRL7249–4) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8585. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Delaware: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL7256–8) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8586. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Determination that the State of Arizona Has Corrected Deficiencies and Stay of Sanctions, Maricopa County Environmental Services Department'' (FRL7253–7) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8587. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revision to the Arizona State Implementation Plan, Maricopa County Environmental Services Department'' (FRL7253–5) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8588. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, South Coast Air Quality Management District, Ventura County Air Pollution Control District'' (FRL7254–8) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8589. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines; Non-Conformance Penalties for 2004 and Later Model Year Emission Standards for Heavy-Duty Diesel Engines and Heavy-Duty Diesel Vehicles'' (FRL7256–6) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8590. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Redesignation and Reclassification, Searless Valley Nonattainment Area; Designation of Coso Junction, Indian Wells Valley, and Trona Nonattainment Areas; California; Determination of Attainment of the PM-10 Standards for the Coso Junction Area; Particulate Matter of 10 microns or less (PM-10)'' (FRL7256–1) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8591. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Transportation Conformity Rule Amendment: Minor Revision of 18-Month Requirement for Initial SIP Submissions and Addition of Grace Period for Newly Designated Nonattainment Areas'' (FRL7256–3) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8592. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Rhode Island: Authorization of State Hazardous Waste Management Program Revision'' (FRL7256–7) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8593. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Effective Date Modification for the Determination of Nonattainment as of November 15, 1999, and Reclassification of the Baton Rouge Ozone Nonattainment Area'' (FRL7262–3) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8594. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Florida: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL7262–5) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8595. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Florida: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL7262–6) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8596. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Nebraska; Final Approval of State Underground Storage Tank Program'' (FRL7261–9) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8597. A communication from the Principal Deputy Associate Administrator of the

Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the Definitions and the Continuous Emission Monitoring Provisions of the Acid Rain Program and the NOx Budget Trading Program; Correction'' (FRL7259–9) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8598. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans Florida: Approval of Revisions to the Florida State Implementation Plan'' (FRL7259–6) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8599. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans for Kentucky: Regulatory Limit on Potential to Emit'' (FRL7259–7) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8600. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''South Carolina; Final Approval of State Underground Storage Tank Program'' (FRL7268–9) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8601. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''OSWER Common Radionuclides Found at Superfund Sites Booklet for the General Public'' received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8602. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Regulatory Status of Crude Sufate Turpentine (CST) under RCRA Regulations'' received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8603. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''List of Approved Spent Fuel Storage Casks: HI–STORM Revision'' (RIN3150–AG97) received on August 15, 2002; to the Committee on Environment and Public Works.

EC–8604. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Division of Endangered Species, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the Newcomb's Snail'' (RIN1018–AH95) received on August 12, 2002; to the Committee on Environment and Public Works.

EC–8605. A communication from the Director of the Endangered Species, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Tumbling Creek Cave Snail Rule to List as Endangered'' (RIN1018–AI19) received on August 12, 2002; to the Committee on Environment and Public Works.

EC–8606. A communication from the Acting Chief, Regulations Branch, Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Administrative Rulings'' (RIN1515–AC56) received on August 19, 2002; to the Committee on Finance.

EC–8607. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Treatment of Subsidiary Income under the 85 Percent Member Income Test of Section 501(c)(12)(A) of the Internal Revenue Code'' (Rev. Rul. 2002–55) received on September 3, 2002; to the Committee on Finance.

EC–8608. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Distribution and Sale of Propane in Tanks by Tax Exempt Electric Cooperatives'' (Rev. Rul. 2002–54) received on September 3, 2002; to the Committee on Finance.

EC–8609. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Ruling 2002–59'' received on September 3, 2002; to the Committee on Finance.

EC–8610. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''TD 9012, Clarification of Entity Classification Rules'' (RIN1545–AX75) received on September 3, 2002; to the Committee on Finance.

EC–8611. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update Notice'' (Notice 2002–57) received on September 3, 2002; to the Committee on Finance.

EC–8612. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice 2002–60—Reduced Maximum Exclusion of Gain from Sale or Exchange of Principal Residence for Taxpayers Affected by the September 11, 2001, Terrorist Attacks'' (Notice 2002–60) received on September 3, 2002; to the Committee on Finance.

EC–8613. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rev. Rul. 2002–52—Bureau of Labor Statistics Price Indexes for Department Stores—June 2002'' (Rev. Rul. 2002–52) received on September 3, 2002; to the Committee on Finance.

EC–8614. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Treaty Guidance Regarding Payment With Respect to Domestic Reverse Hybrid Entities'' (RIN1545–AY13) received on September 3, 2002; to the Committee on Finance.

EC–8615. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rev. Proc. 2002–54—Application of Rev. Proc. 2002–19'' (Rev. Proc. 2002–54) received on September 3, 2002; to the Committee on Finance.

EC–8616. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Coordinated Issue: Supervisory Goodwill'' (UILN 597.13–00) received on September 3, 2002; to the Committee on Finance.

EC–8617. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Mark to Market Election under TRA97'' (Notice 2002–58) received on September 3, 2002; to the Committee on Finance.

EC–8618. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Furnishing Identifying Number of Income Tax Return Preparer'' (RIN1545–AX27) received on September 3, 2002; to the Committee on Finance.

EC–8619. A communication from the Regulations Coordinator, Center for Medicare Management, Center for Medicare and Medicaid Service, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Inpatient Rehabilitation Facility Prospective System for FY 2003'' (RIN0938–AL22) received on July 31, 2002; to the Committee on Finance.

EC–8620. A communication from the Regulations Coordinator, Center for Medicare Management, Center for Medicare and Medicaid Service, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities—Update for FX2003—Notice'' (RIN0938–AL20) received on July 31, 2002; to the Committee on Finance.

EC–8621. A communication from the Regulations Coordinator, Center for Medicare Management, Center for Medicare and Medicaid Service, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Medicare Endorsed Prescription Drug Card Assistance Initiative CMS–4027–F'' (RIN0938–AL25) received on July 31, 2002; to the Committee on Finance.

EC–8622. A communication from the Regulations Coordinator, Center for Medicare Management, Center for Medicare and Medicaid Service, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Prospective Payment System for Long-Term Care Hospitals—FY 2003'' (RIN0938–AK69) received on July 31, 2002; to the Committee on Finance.

EC–8623. A communication from the Regulations Coordinator, Center for Medicare Management, Center for Medicare and Medicaid Service, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program: Changes to the Hospital Inpatient Prospective Payment System and FY 2003'' (RIN0938–AL23) received on July 31, 2002; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

H.R. 3214: A bill to amend the charter of the AMVETS organization.

H.R. 3838: A bill to amend the charter of the Veterans of Foreign Wars of the United States organization to make members of the armed forces who receive special pay for duty subject to hostile fire or imminent danger eligible for membership in the organization, and for other purposes.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. RES. 316: A bill designating the year beginning February 1, 2003 , as the ''Year of the Blues''.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1615: A bill to provide for the sharing of certain foreign intelligence information with local law enforcement personnel, and for other purposes.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 1972: A bill to amend the charter of the AMVETS organization.

S. 2127: A bill for the relief of the Pottawatomi Nation in Canada for settlement of certain claims against the United States.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2896: A bill to enhance the operation of the AMBER Alert communications network in order to facilitate the recovery of abducted children, to provide for enhanced notification on highways of alerts and information on such children, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. JOHNSON:

S. 2903. A bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care; to the Committee on Veterans' Affairs.

By Mr. WELLSTONE:

S. 2904. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide emergency protection for retiree health benefits; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALLARD:

S. 2905. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the elimination of the 60-month limit and an increase in the income limitation on the student loan interest deduction; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2906. A bill to amend title 23, United States Code, to establish a program to make allocations to States for projects to expand 2-lane highways in rural areas to 4-lane highways; to the Committee on Environment and Public Works.

By Ms. MIKULSKI (for herself, Mr. DASCHLE, Mr. LEAHY, Mr. SARBANES, Mrs. CLINTON, Mr. KENNEDY, Mr. AKAKA, Mr. TORRICELLI, Mr. JOHNSON, Mr. CORZINE, and Mr. SCHUMER):

S. 2907. A bill to redesignate the facility of the United States Postal Service located at 900 Brentwood Road, NE, in Washington, D.C., as the ''Joseph Curseen, Jr. and Thomas Morris, Jr. Processing and Distribution Center''; to the Committee on Governmental Affairs.

By Mr. FEINGOLD (for himself, Mr. LEAHY, Mr. LIEBERMAN, Mr. KOHL, Mr. REID, Mr. SARBANES, Mr. TORRICELLI, and Mr. JEFFORDS):

S. 2908. A bill to require the Secretary of Defense to establish at least one Weapons of Mass Destruction Civil Support Team in each State, and for other purposes; to the Committee on Armed Services.

By Mr. SMITH of Oregon:

S. 2909. A bill to amend the Internal Revenue Code of 1986 to make permanent the deduction for qualified tuition and related expenses and to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to such deduction and the extension of the exclusion for employer-provided educational assistance; to the Committee on Finance.

By Mr. SANTORUM:

S. 2910. A bill to amend the Constitution Heritage Act of 1988 to provide for the operation of the National Constitution Center; to the Committee on Energy and Natural Resources.

By Mr. HUTCHINSON (for himself, Mr. GREGG, Mr. KYL, Mr. CRAIG, Mr. MURKOWSKI, Mr. ALLARD, and Mr. MCCAIN):

S. 2911. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the modifications to education individual retirement accounts; to the Committee on Finance.

By Mr. DODD (for himself, Mr. KENNEDY, Mr. WELLSTONE, and Mr. REED):

S. 2912. A bill to provide for educational opportunities for all students in State public school systems, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. LINCOLN (for herself, Ms. COLLINS, Ms. LANDRIEU, Mr. HUTCHINSON, and Mr. FITZGERALD):

S. Res. 322. A resolution designating November 2002, as ''National Epilepsy Awareness Month''; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 323. A resolution to authorize testimony and representation in Senator Mitch McConnell, et. al. v. Federal Election Commission, et al., and consolidation cases; considered and agreed to.

ADDITIONAL COSPONSORS

S. 486

At the request of Mr. LEAHY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 486, a bill to reduce the risk that innocent persons may be executed, and for other purposes.

S. 572

At the request of Mr. CHAFEE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 572, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 654

At the request of Mr. TORRICELLI, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 654, a bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 859

At the request of Mr. THOMAS, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 859, a bill to amend the Public Health Service Act to establish a mental health community education program, and for other purposes.

S. 917

At the request of Ms. COLLINS, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 917, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 995

At the request of Mr. AKAKA, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 995, a bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in non-disclosure policies, forms, and agreements that such policies, forms and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes.

S. 1224

At the request of Mr. ALLARD, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1224, a bill to amend title XVIII of the Social Security Act to extend the availability of medicare cost contracts for 10 years.

S. 1619

At the request of Mr. SANTORUM, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1619, a bill to amend title XVIII of the Social Security Act to provide for coverage of substitute adult day care services under the medicare program.

S. 1818

At the request of Mr. DURBIN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1818, a bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

S. 1990

At the request of Mrs. MURRAY, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 1990, a bill to establish a public education awareness program relating to emergency contraception.

S. 2215

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2239

At the request of Mr. SARBANES, the name of the Senator from Wyoming

(Mr. ENZI) was added as a cosponsor of S. 2239, a bill to amend the National Housing Act to simplify the downpayment requirements for FHA mortgage insurance for single family homebuyers.

S. 2246

At the request of Mr. DODD, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 2246, a bill to improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, and for other purposes.

S. 2490

At the request of Mr. TORRICELLI, the names of the Senator from Georgia (Mr. CLELAND) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 2490, a bill to amend title XVIII of the Social Security Act to ensure the quality of, and access to, skilled nursing facility services under the medicare program.

S. 2513

At the request of Mr. BIDEN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2513, a bill to asses the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence.

S. 2528

At the request of Mr. DOMENICI, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 2528, a bill to establish a National Drought Council within the Federal Emergency Management Agency, to improve national drought preparedness, mitigation, and response efforts, and for other purposes.

S. 2572

At the request of Mr. KERRY, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2572, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 2577

At the request of Mr. FITZGERALD, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2577, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the exclusion from Federal income tax for restitution received by victims of the Nazi Regime.

S. 2614

At the request of Mr. CORZINE, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2614, a bill to amend title XVIII of the Social Security Act to reduce the work hours and increase the supervision of resident physicians to ensure the safety of patients and resident physicians themselves.

S. 2615

At the request of Mr. MURKOWSKI, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 2615, a bill to amend title XVII of the Social Security Act to provide for improvements in access to services in rural hospitals and critical access hospitals.

S. 2667

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 2667, a bill to amend the Peace Corps Act to promote global acceptance of the principles of international peace and nonviolent coexistence among peoples of diverse cultures and systems of government, and for other purposes.

S. 2742

At the request of Mrs. HUTCHISON, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 2742, a bill to establish new nonimmigrant classes for border commuter students.

S. 2758

At the request of Mr. DODD, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2758, a bill entitled ''The Child Care and Development Block Grant Amendments Act''.

S. 2760

At the request of Mr. ENZI, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 2760, a bill to direct the Securities and Exchange Commission to conduct a study and make recommendations regarding the accounting treatment of stock options for purposes of the Federal securities laws.

S. 2770

At the request of Mr. DODD, the names of the Senator from Washington (Mrs. MURRAY), the Senator from Maine (Ms. COLLINS), the Senator from New Jersey (Mr. CORZINE) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 2770, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas.

S. 2803

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2803, a bill to amend the Federal Meat Inspection Act, the Poultry Producers Inspection Act, and the Federal Food, Drug, and Cosmetic Act to provide for improved public heath and food safety through enhanced enforcement, and for other purposes.

S. 2841

At the request of Mr. CORZINE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2841, a bill to adjust the indexing of multifamily mortgage limits, and for other purposes.

S. 2848

At the request of Ms. COLLINS, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 2848, a bill to amend title XVIII of the Social Security Act to provide for a clarification of the definition of homebound for purposes of determining eligibility for home health services under the medicare program.

S. 2860

At the request of Mr. ROCKEFELLER, the names of the Senator from Minnesota (Mr. WELLSTONE) and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 2860, a bill to amend title XXI of the Social Security Act to modify the rules for redistribution and extended availability of fiscal year 2000 and subsequent fiscal year allotments under the State children's health insurance program, and for other purposes.

S. 2869

At the request of Mr. KERRY, the names of the Senator from Nevada (Mr. ENSIGN) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 2869, a bill to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

S. 2869

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 2869, supra.

S. 2896

At the request of Mrs. HUTCHISON, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2896, a bill to enhance the operation of the AMBER Alert communications network in order to facilitate the recovery of abducted children, to provide for enhanced notification on highways of alerts and information on such children, and for other purposes.

S. RES. 270

At the request of Mr. CAMPBELL, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. Res. 270, a resolution designating the week of October 13, 2002, through October 19, 2002, as ''National Cystic Fibrosis Awareness Week''.

S. CON. RES. 113

At the request of Mrs. CLINTON, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. Con. Res. 113, a concurrent resolution recognizing and supporting the efforts of the State of New York to develop the National Purple Heart Hall of Honor in New Windsor, New York, and for other purposes.

S. CON. RES. 135

At the request of Mr. NICKLES, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. Con. Res. 135, a concurrent resolution expressing the sense of Congress regarding housing affordability and urging fair and expeditious review by international trade tribunals to ensure a competitive North American market for softwood lumber.

AMENDMENT NO. 4480

At the request of Mr. ALLARD, his name was added as a cosponsor of

amendment No. 4480 proposed to H.R. 5093, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

AMENDMENT NO. 4481

At the request of Mr. DASCHLE, the names of the Senator from Utah (Mr. BENNETT), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Louisiana (Mr. BREAUX) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of amendment No. 4481 proposed to H.R. 5093, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

AMENDMENT NO. 4481

At the request of Mr. ALLARD, his name was added as a cosponsor of amendment No. 4481 proposed to H.R. 5093, supra.

AMENDMENT NO. 4481

At the request of Mr. BAUCUS, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of amendment No. 4481 proposed to H.R. 5093, supra.

AMENDMENT NO. 4486

At the request of Mr. JOHNSON, his name was added as a cosponsor of amendment No. 4486 proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

AMENDMENT NO. 4486

At the request of Mr. HARKIN, his name was added as a cosponsor of amendment No. 4486 proposed to H.R. 5005, supra.

AMENDMENT NO. 4491

At the request of Mr. SMITH of New Hampshire, the names of the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Wyoming (Mr. THOMAS) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of amendment No. 4491 proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

AMENDMENT NO. 4491

At the request of Ms. COLLINS, her name was added as a cosponsor of amendment No. 4491 proposed to H.R. 5005, supra.

AMENDMENT NO. 4491

At the request of Mr. ENSIGN, his name was added as a cosponsor of amendment No. 4491 proposed to H.R. 5005, supra.

AMENDMENT NO. 4491

At the request of Mrs. BOXER, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of amendment No. 4491 proposed to H.R. 5005, supra.

AMENDMENT NO. 4492

At the request of Ms. COLLINS, her name was added as a cosponsor of amendment No. 4492 proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

AMENDMENT NO. 4492

At the request of Mr. SMITH of New Hampshire, the names of the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Wyoming (Mr. THOMAS) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of amendment No. 4492 proposed to H.R. 5005, supra.

AMENDMENT NO. 4492

At the request of Mrs. BOXER, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of amendment No. 4492 proposed to H.R. 5005, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSON:

S. 2903. A bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care; to the Committee on Veterans' Affairs.

Mr. JOHNSON. Mr. President, I rise today to introduce the Veterans Health Care Funding Guarantee Act.

I am introducing the legislation because I believe the VA health case system is on the brink of crisis. While the number of veterans in the United States has decreased over the years, the number of veterans utilizing the VA health care system has increased exponentially. This is due in large part to the availability of Community-Based Outpatient Clinics and the prescription drug benefits available through the VA. The VA estimates that it will see an additional 1.2 million patients over the next fiscal year. This would bring the number of veterans served through the VA up to 4.9 million, a 31 percent increase in one year.

While the VA has become the health care system of choice for many veterans, the system is simply not equipped to handle this kind of patient influx at the current funding level. According to the VA, 300,000 veterans are waiting for appointments, half of them will end up waiting six months or more. I know this to be the case in my own State. In Sioux Falls, veterans are currently being given appointment dates for November of 2003. Furthermore, recent articles in the Aberdeen American News and the Argus Leader reported that the VA has been instructed not to recruit veterans into the health care system any more because of lack of resources.

This is despite the fact that for the past several years Congress has provided funding for veterans health care in excess of the VA's request. Two years ago, I helped fight for a $1.4 billion increase in veterans health care funding over the Administration's initial request. Last year, we succeeded in adding an additional $1.1 billion. During Senate consideration of the Fiscal Year 2002 Emergency Supplemental Appropriations bill, I was pleased to work with my fellow members of the Appropriations Committee to ensure that $417 million in additional funding for veterans health care was included in the bill. Given the current problems within the VA health care system, I was disappointed that President refused to spend $275 million of the emergency funding that was earmarked for veterans health care. According to the Independent Budget, which is prepared by the Disabled American Veterans, AMVETS, the Paralyzed Veterans of America, and the Veterans of Foreign Wars, the Administration's Fiscal Year 2003 request for VA health care is $1.7 billion less than what is needed to fully fund our veterans' health care needs.

We need a new approach to veterans health care. The Veterans Health Care Funding Guarantee Act that I am introducing today would change the way in which the VA health care system is funded by moving it from discretionary to mandatory spending. The bill would establish a base-line funding year and calculate the average cost of a veteran using the VA health care system. The bill would them provide funding for the total number of veterans who participate in the VA health care system. That would be indexed annually for inflation.

In my opinion, the men and women who put their lives on the line in defense of this Nation should not be told that they need to wait up to a year before someone can assess their medical needs. I believe that the Veterans Health Care Funding Guarantee Act is an important starting point to begin a discussion about maintaining our commitments to our Nation's veterans. It is my hope that my colleagues will join me in examining new ways to provide our veterans with the high-quality health care they deserve.

By Mr. ALLARD:

S. 2905. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the elimination of the 60-month limit and an increase in the income limitation on the student loan interest deduction; to the Committee on Finance.

Mr. ALLARD. Mr. President, today I introduce legislation that will repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to student loan interest deduction. My bill will make permanent the provisions that are set to expire under current law on December 31, 2010. The affected provisions include the elimination of the 60-month limit on deductibility of interest paid on a qualified education loan and clarify that voluntary payments of interests are deductible, as well as the adjustment to the phase out range for eligibility for loan interest deduction up to $50,000 through $65,000 for single taxpayers and $100,000 to $130,000 for joint returns.

Making these provisions permanent will be good for taxpayers because borrowers will benefit from added tax relief when they voluntarily pay back

higher amounts of their student loans each month. More people will also benefit from the adjustment of the phase out range to a higher income bracket for both single and joint tax returns.

In my home State of Colorado over 40 percent of the adult residents have at least a Bachelor's degree, thus repealing the sunset date of these provisions will have a positive long term effect on my constituents. The current law is already helping many people and we can continue to help Americans keep more of their money by repealing the sunset date of these provisions.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF APPLICABILITY OF SUNSET OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001 WITH RESPECT TO ELIMINATION OF 60-MONTH LIMIT AND INCREASE IN INCOME LIMITATION ON STUDENT LOAN INTEREST DEDUCTION.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new subsection:

''(c) EXCEPTION.—Subsection (a) shall not apply to the amendments made by section 412 (relating to elimination of 60-month limit and increase in income limitation on student loan interest deduction).''.

By Mr. BINGAMAN:

S. 2906. A bill to amend title 23, United States Code, to establish a program to make allocations to States for projects to expand 2-lane highways in rural areas to 4-lane highways; to the Committee on Environment and Public Works.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Rural Four-Lane Highway Safety and Development Act of 2002. The purpose of this legislation is to ensure that States have the resources they need to upgrade major two-lane roads across the Nation to high-quality four-lane divided highways. The goals of this bill are to improve the safety of our most dangerous highways and to stimulate economic development in rural areas.

I think most Senators would agree that the Dwight D. Eisenhower National System of Interstate and Defense Highways is one of the transportation marvels of the 20th century. The system's 46,000 miles of divided highways interconnect virtually every major urban areas in the Nation. The system represents one of the most efficient and safest highway systems in the world.

Unfortunately, when the Interstate System was planned it left many rural communities and smaller urban areas without direct links to the high-quality transportation network that the interstate highways provide. Many of these smaller and rural communities continue to suffer economically because of the lack of high-quality four-lane highways.

To address this issue, in 1995 Congress developed the concept of a National Highway System as a way of extending the benefits of an efficient highway network to all areas of the country. Congress designated the National Highway System to help focus federal resources on the nation's most important roads.

Today there are about 160,000 miles on the National Highway System including all of the interstate highways and all other routes that are important to the nation's economy, defense, and general mobility. The NHS comprises only 4 percent of the nation's roads, but carries more than 40 percent of all highway traffic, 75 percent of heavy truck traffic and 90 percent of tourist traffic.

The NHS reaches nearly every part of the nation. According to the Federal Highway Administration, about 90 percent of American's population lives within 5 miles of an NHS route. All urban areas with a population of more than 50,000 and 93 percent with a population of between 5,000 and 50,000 are within 5 mile;s of the NHS. Counties with NHS highways have 99 percent of all jobs, including 99 percent of all manufacturing jobs, 90 percent of mining jobs, and 93 percent of agricultural jobs.

The NHS is the critical transportation link of most of our Nation's rural areas. According the Federal Highway Adminstration, of the 160,000 miles now on the National Highway System, fully 75 percent, or 119,000 miles, are in rural areas. Of the 1.2 trillion vehicle miles traveled in 2000 on NHS roads, about 60 percent were in rural areas.

I hope all senators will agree that improving highway safety should be our top priority. When it comes to highway safety, the fact that travel on four-lane roads is safer than two-lane roads. This is especially true in rural areas. According to the Bureau of Transportation Statistics, in 1998 the rate of traffic fatalities on all rural roads was 2.39 per 100-million vehicle miles; however, the rate of rural interstate highways was half as high, only 1.23 per 100 million vehicle-miles.

The reason for the lower fatality rate on rural interstate highways should be obvious. When a road has only one lane in each direction, trucks and other slow-moving vehicles increase the hazard of passing. Vehicles turning on or off a two-lane road can also increase risk. A divided four-lane highway greatly reduces these perils.

Of the 119,000 miles of rural NHS roads, about 33,000 miles are interstates and another 28,000 miles have been upgraded to four or more lanes. The remaining 58,000 miles, more than half of this rural highway network—are stil only two-lane roads with no central divider. These are the most dangerous roads on the National Highway System.

Unfortunately, there are only very limited funds available to upgrade the most dangerous two-lane rural NHS roads to four-lane highways. According to a recent GAO study, over two-thirds of all federal highways funding between 1992 and 200 has gone either to roads in urban areas or to interstate highways. Consequently, there is a continuing shortfall in Federal highway funding needed to upgrade the most important rural two-lane highways. My bill will help address the shortfall so that more rural segments of the NHS can be upgraded to four-lane divided highways.

In my State of New Mexico, we have made some progress toward upgrading our rural two-lane highways to four lanes. In recent years, US550 from Bernalillo to Farmington and US285 from Interstate 40 to Carlsbad have been widened to four lanes. In addition, upgrading of US70 from Las Cruces to Clovis and a key segment of US54 from El Paso to Alamogordo are nearly completed. But much more remains to be done.

New Mexico has 2,935 miles of rural roads in the NHS. One thousand of these NHS miles are interstates. Of the balance of New Mexico NHS highways, 1,755 miles are in the rural parts of my state, especially Chaves, Colfax, Eddy, Lincoln, Guadalupe, Otero, Quay, San Juan, and Union Counties. And almost 70 percent—1,217 miles, of New Mexico's rural NHS highways remain only two-lane roads. These two-lane roads are major transportation routes with heavy truck and commercial traffic. In 2000, a total of 10.3 billion vehicle miles were traveled on New Mexico's NHS highways, and about one quarter, or 2.7 billion miles, were traveled on these rural NHS roads.

As in many States, New Mexico's rural counties strongly believe their economic future depends on access to safe and efficient four-lane highways. Basic transportation infrastructure is one of the critical elements companies look for when choosing where to locate. Truck drivers and the traveling public prefer the safety and efficiency of a four-lane divided highway.

Thus one of the top priorities for rural cities and counties in my State is to complete the four-lane upgrade of such key routes as US54 from Tularosa to Nara Vista, US62/180 from Carlsbad to the Texas State line, US64/87 from Clayton to Raton, US 666 from north to Gallup to Shiprock, US285 from Clines Corners to Lamy, and US180 from Deming to Silver City. These two-lane rural routes in New Mexico not only bear some of the State's heaviest truck and automobile traffic, but also are some of the state's most dangerous. In fact, US 666 is considered one of the most dangerous two-lane highways in the Nation.

I ask unanimous consent that a table showing recent accident, fatality and injury rates for these major two-lane highways in New Mexico be printed in the RECORD.

EXHIBIT 1.—MAJOR TWO-LANE NHS HIGHWAYS IN NEW MEXICO

Two-lane NHS routes in New Mexico	Crashes 1998–2000	Fatalities 1998–2000	Injuries 1998–2000
US 62/180 Carlsbad to Texas State Line 30 miles	55	2	34
US 54, Tularosa to Texas State Line SPIRIT High Priority Corridor 214 miles	364	12	217
US 64/87 Raton to Clayton Ports-to-Plains High Priority Corridor 74 miles	163	5	157
US 666 North of Gallup to Shiprock 59 miles	148	12	166
US 180 Deming to Silver City 40.5 miles	60	3	50
US 285 Clines Corners to Lamy 37 miles	42	0	26
US 60/84 Santa Rosa to Ft. Sumner to Clovis 89 miles	97	6	54

Source: New Mexico State Highway and Transportation Department.

Mr. BINGAMAN. Mr. President, New Mexico is not alone in needing to upgrade two-lane roads on the National Highway System. Just last month my good friend Senator REID of Nevada, chaired a hearing of the Transportation, Infrastructure and Nuclear Safety Subcommittee of the Environment and Public Works Committee on the topic of western transportation issues. One of the witnesses, Tom Stephens, Director of Nevada's Department of Transportation, testified that rural two-lane highways are of special concern in Nevada. He indicated that the number of head-on accidents, which almost always include at least on vehicle with no fault, were especially troublesome in his state. I would note that Nevada has about 1,300 miles of rural two-lane NHS highways. Excluding interstates, 92 percent of the rural NHS miles in Nevada are still only two-lane roads.

Along with Nevada, many other States have long stretches of two-lane NHS roads. For example, Texas has over 3,400 miles of rural two-lane NHS roads. In Montana, 95 percent of all rural NHS roads are still only two lanes. Mr. President, I ask unanimous consent that a table showing the number of miles of rural two-lane highways in selected States be printed at this point in the RECORD.

EXHIBIT 2.—RURAL TWO- AND FOUR-LANE ROADS ON THE NATIONAL HIGHWAY SYSTEM FOR SELECTED STATES

State	Total rural NHS miles	Rural Interstate NHS miles	All other rural NHS miles	Two-lane rural NHS miles	Percent Rural Two Lane
Arkansas	2,253	467	1,786	1,465	83%
California	5,031	1,357	3,674	2,433	66%
Colorado	2,598	767	1,831	1,286	70%
Idaho	2,188	526	1,662	1,471	89%
Illinois	3,358	1,515	1,843	1,407	76%
Iowa	2,672	635	2,037	1,547	76%
Kansas	3,352	694	2,658	2,293	86%
Michigan	3,048	741	2,307	1,753	76%
Minnesota	2,213	557	2,581	1,897	73%
Missouri	3,385	806	2,579	1,853	72%
Montana	3,739	1,134	2,605	2,469	95%
Nebraska	2,686	437	2,249	1,964	87%
Nevada	1,921	480	1,441	1,317	92%
New Mexico	2,647	892	1,775	1,217	69%
North Dakota	2,619	531	2,088	1,659	79%
Oklahoma	2,836	721	2,115	1,105	52%
Oregon	3,259	581	2,678	2,197	82%
Pennylvania	3,459	1,207	2,252	1,426	63%
South Dakota	2,822	629	2,193	1,938	88%
Texas	8,736	2,213	6,523	3,465	53%
Wisconsin	3,240	580	2,660	1,702	64%
Wyoming	2,784	826	1,958	1,924	98%
U.S. total	118,878	33,048	85,830	58,444	68%

Source: FHWA, Highway Statistics 2000, Tables HM–15 and HM–35

Mr. BINGAMAN. Of course, two-lane rural NHS roads are not unique to the large western states. Even in the East, where states are smaller, many NHS routes remain only two lanes. In Vermont, 78 percent of rural NHS roads are only two lanes, in New Hampshire it's 84 percent and 99 percent in Maine.

Mr. President, I do believe it is time Congress took action to improve the safety of cars and trucks on these important two-lanes roads. This year, I secured $1 million in federal funding to begin the upgrade of US64/87 between Clayton and Raton, which is part of the Ports-to-Plains High Priority Corridor on the National Highway System.

In addition, Senator ROBERTS and I have introduced legislation to designate US Highway 54 from El Paso, Texas, through New Mexico, Texas, and Oklahoma to Wichita, Kansas as the SPIRIT High Priority Corridor. Our bipartisan bill has three cosponsors. A high-priority corridor designation provides no additional federal funding, but helps focus attention on the need to upgrade the nation's major two-lanes routes. The sponsors of the bill have joined me in urging the Environment and Public Works Committee to act promptly on our bill.

Mr. President, the purpose of the bill I am introducing today, the Rural Four-Lane Highway Safety and Development Act of 2002, is to provide direct federal funding to states to upgrade existing two-lane roads in rural areas to safe and efficient four-lane divided highways. The states would determine which two-lane roads they wanted to upgrade. To be eligible for funding, the highway must be on the National Highway System or a congressionally designated High Priority Corridor. In my bill, priority for funding is given to upgrading the most dangerous two-lane highways, routes most affected by increased traffic as a result of NAFTA, highways that have high levels of commercial traffic, and projects that will help stimulate regional economic growth. Total funding for six years is $1.8 billion from the highway trust fund.

Mr. President, I continue to believe strongly in the important role of highway infrastructure to economic development. Even in this age of the so-called ''new'' economy and high-speed digital communications, roads continue to link our communities together and to carry the commercial goods and products our citizens need. Safe and efficient highways are especially important to citizens in the rural parts of our country.

I recognize that the funding level in this bill is not large enough to upgrade all of the remaining two-lane routes on the NHS in the course of the next six years. Upgrading an existing two-lane road to a full four-lane divided highway can cost upward of one million dollars per mile.

Moreover, some of the existing two-lane roads probably don't have sufficient traffic to justify upgrading at this time. In addition, some two-lane NHS routes pass through scenic areas where it may not be appropriate to upgrade to four lanes. However, I do believe the funding in this bill will take us a long way toward ensuring the most critical projects are completed in the next six years.

Mr. President, next year Congress must take up the reauthorization of the comprehensive six-year transportation bill, TEA–21. I am introducing this bill today to help ensure that the issue of the safety of rural two-lane NHS routes will receive the attention it deserves in the debate on reauthorization. I look forward to working with the chairman of the Environment and Public Works Committee, Senator JEFFORDS, and Senator SMITH, the ranking member, as well as Senators REID and INHOFE of the Transportation, Infrastructure and Nuclear Safety Subcommittee, to find a way to ensure additional federal resources are in place to begin the work of upgrading existing two-lane NHS roads to safe, efficient four-lane divided highways.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rural Four-Lane Highway Safety and Development Act of 2002''.

SEC. 2. RURAL 4-LANE HIGHWAY DEVELOPMENT PROGRAM.

(a) IN GENERAL.—Title 23, United States Code, is amended by inserting after section 138 the following:

''§ 139. Rural 4-lane highway development program

''(a) DEFINITIONS.—In this section:

''(1) 2-LANE HIGHWAY.—The term '2-lane highway' means a highway that has not more than 1 lane of traffic in each direction.

''(2) 4-LANE HIGHWAY.—The term '4-lane highway' means a highway that has 2 lanes of traffic in each direction.

''(b) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish and carry out a program to make allocations to States for projects, consisting of planning, design, environmental review, and construction, to expand eligible 2-lane highways in rural areas to 4-lane highways.

''(c) APPLICATIONS.—To be eligible to receive an allocation under this section, a State shall submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require.

''(d) ELIGIBLE HIGHWAYS.—The Secretary may make allocations under this section only for projects to expand 2-lane highways that are on—

''(1) the National Highway System; or

''(2) a high priority corridor identified under section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032).

''(e) PRIORITY IN SELECTION.—In making allocations under this section, the Secretary shall give priority to—

''(1) projects to improve highway safety on the most dangerous rural 2-lane highways on the National Highway System;

''(2) projects carried out on rural highways with respect to which the annual volume of commercial vehicle traffic—

''(A) has increased since the date of enactment of the North American Free Trade Agreement Implementation Act (107 Stat. 2057); or

''(B) is expected to increase after the date of enactment of this section;

''(3) projects carried out on rural highways with high levels of commercial truck traffic; and

''(4) projects on highway corridors that will help stimulate regional economic growth and development in rural areas.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $300,000,000 for each of fiscal years 2004 through 2009.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 138 the following:

''139. Rural 4-lane highway development program.''.

By Ms. MIKULSKI (for herself, Mr. DASCHLE, Mr. LEAHY, Mr. SARBANES, Mrs. CLINTON, Mr. KENNEDY, Mr. AKAKA, Mr. TORRICELLI, Mr. JOHNSON, Mr. CORZINE, and Mr. SCHUMER):

S. 2907. A bill to redesignate the facility of the United States Postal Service located at 900 Brentwood Road, NE, in Washington, D.C., as the ''Joseph Curseen, Jr. and Thomas Morris, Jr. Processing and Distribution Center''; to the Committee on Governmental Affairs.

Ms. MIKULSKI. Mr. President, I rise today to introduce a bill to rename the Brentwood Postal Facility after Joseph Curseen, Jr. and Thomas Morris, Jr., the two postal workers who died in last year's anthrax attack.

I have expressed my deepest condolences to the families of these two men, both residents of my State of Maryland. They were true public servants. They were patriots. They died in service to their country. I want to you to know that I will be standing sentry to make sure that we do not forget Joe Curseen and Tom Morris.

America must remember the sacrifices they made, the pain felt by their families, and everyone affected by the anthrax attacks. All of our Nation's postal workers deserve our attention and our gratitude for their bravery, steadfastness and dedication to duty. The lives of Joseph Curseen, Jr. and Thomas Morris, Jr. truly exemplify the best qualities of our Nation's postal workers.

Joseph Curseen was a native of Washington, DC and a long-time resident of Prince George's County, MD. Mr. Curseen began and ended each day at his job with a handshake and a smile for his colleagues. He enjoyed his job at the postal service so much that he never called in sick during his 15 years there.

He was also a leader in his community and in his church. As President of his neighborhood association, he and his wife of 16 years, Celestine, helped build a playground and a park for local children. He was also active in his local church and led a bible study group for his fellow postal workers. He will be missed by many.

Mr. Morris, who known as ''Moe'' by his friends at the Brentwood facility, was also a Washington, DC native and long-time resident of Maryland's Prince George's County. He was a veteran, serving over four years in the Air Force. He continued his public service with 23 years at the U.S. Postal Service.

His wife Mary says he was a quiet and deeply religious man who led by example. In her eulogy, she said that he was true to others and true to himself. Mr. Morris was a beloved husband, grandfather, father, and stepfather as well as president of his local bowling league. He will also be deeply missed.

By renaming Brentwood in their honor, America will pay tribute to their commitment to public service, their families and their communities.

At their funeral, these two dedicated public servants were awarded the Postmaster General's Medal of Freedom. Yesterday, Representatives Wynn, Norton and the rest of the Maryland delegation led the charge to pass a bill to rename the Brentwood facility for these two fallen heroes. Today, the Senate takes the next step to make sure that the Brentwood facility is renamed in honor of these fallen heroes.

On Friday, I will be going to New York to commemorate last year's terrorists attacks, to honor our public servants, our firemen, postal workers, port authority workers, EMTs, policemen, and all those who assisted in the rescues.

I want all postal workers to know that I am on their side. I will not forget how deeply they have suffered. I will continue to fight for them in Congress and make sure that their voice is heard.

It is our responsibility as United States Senators to ensure the right people are asking the right questions to protect all Americans from the risks of terrorism, and to ensure that all Americans who are victims of terrorist attacks are treated equally.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JOSEPH CURSEEN, JR. AND THOMAS MORRIS, JR. PROCESSING AND DISTRIBUTION CENTER.

(a) REDESIGNATION.—The facility of the United States Postal Service located at 900 Brentwood Road, NE, in Washington, D.C., and known as the Brentwood Processing and Distribution Center, shall be known and designated as the ''Joseph Curseen, Jr. and Thomas Morris, Jr. Processing and Distribution Center''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Joseph Curseen, Jr. and Thomas Morris, Jr. Processing and Distribution Center.

By Mr. FEINGOLD (for himself, Mr. LEAHY, Mr. LIEBERMAN, Mr. KOHL, Mr. REID, Mr. SARBANES, Mr. TORRICELLI, and Mr. JEFFORDS):

S. 2908. A bill to require the Secretary of Defense to establish at least one Weapons of Mass Destruction Civil Support Team in each State, and for other purposes; to the Committee on Armed Services.

Mr. FEINGOLD. Mr. President, today, I am introducing the Weapons of Mass Destruction Civil Support Act of 2002. This bill would require the Secretary of Defense to establish at least one Weapons of Mass Destruction Civil Support Team, WMD-CST, in each State by September 30, 2003. The cost of establishing, training, equipping, and operating these new teams would be paid for from existing fiscal year 2003 resources, thus requiring no additional spending.

I am pleased to be joined in this effort by Senators LEAHY, LIEBERMAN, KOHL, REID of Nevada, SARBANES, TORRICELLI, and JEFFORDS.

WMD–CSTs are comprised of 22 full-time National Guard personnel who are specially trained and equipped to deploy and assess suspected nuclear, chemical, biological, or other threats

in support of local first responders. There are currently 32 full-time and 23 part-time WMD–CSTs across the country.

The emerging chemical, biological, and other threats of the 21st century present new challenges to our military and to local first responders. The WMD–CSTs play a vital role in assisting local first responders in investigating and combating these new threats. The September 11 terrorist attacks emphasize the need to have full-time WMD–CSTs in each State. As the events of that day so clearly and tragically demonstrated, local first responders are on the front lines of combating terrorism and responding to other large-scale incidents. As we rethink the security needs of our country, we should support the creation of an additional 23 full-time WMD–CSTs as soon as possible. Establishing these additional full-time teams will improve the overall capability of Wisconsin and the other 18 States with part-time teams to prepare for and respond to potential threats in the future.

According to the National Guard Bureau, WMD–CSTs performed 694 operational missions between September 11, 2001, and August 26, 2002. These missions fall into three categories: ''response,'' ''standby,'' and ''assist.''

Response missions occur when a team is deployed to sample a suspected or known hazardous substance. Since September 11, WMD–CSTs have deployed on 151 response missions, most of which were to investigate reports of suspicious white powder in the wake of the anthrax attacks of last fall. Other response missions included reports of the presence of unknown liquids or of suspicious pieces of mail.

There have been 74 standby missions during this same time frame. On these missions, WMD–CSTs deploy to provide expertise to a specific community for the visit of a dignitary such as the President or a Governor, or for a large-scale event. In the past year, WMD–CSTs have been on standby for events including the Major League Baseball All-Star Game in Milwaukee, the 2002 Winter Olympics and Paralympics in Salt Lake City, the World Series, the Super Bowl, and Mardi Gras.

Assist missions give WMD–CST members the opportunity to use their technical expertise to assist or provide advice to local first responders or other organizations and to participate in conferences and other events that focus on how to respond to attacks. In the past year, CSTs have performed 469 assist missions in support of local, State, and Federal agencies including law enforcement, hospitals, health departments, state emergency management agencies, the American Red Cross, the Coast Guard, the Secret Service, the Federal Bureau of Investigation, the Drug Enforcement Agency, and the United States Navy.

As I noted earlier, a WMD–CST was deployed to be on standby during this year's baseball All-Star game, which took place in my home State. Because Wisconsin has only a part-time WMD–CST, the Minnesota team was deployed on a standby mission to Milwaukee for this event. The members of Wisconsin's part-time WMD–CST also participated in this deployment. According to the Wisconsin National Guard, if Wisconsin had a full-time team, deployment of the Minnesota team would not have been necessary.

In light of the tragic events of September 11, the presence of at least one WMD–CST in each State is all the more imperative. These terrorist attacks, and the subsequent mobilization of tens of thousands of National Guardsmen and Reservists, also underscore the need to provide adequate resources for and to ensure full-time manning of the National Guard. As we move to establish at least one 22-member WMD–CST in each State, I call on the Pentagon to allocate the necessary resources to ensure adequate National Guard personnel end-strengths to provide for full-time manning and for the additional personnel necessary for these new teams.

I am pleased that this bill is supported by the Wisconsin National Guard and by the National Guard Association of the United States.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Weapons of Mass Destruction Civil Support Team Act of 2002''.

SEC. 2. ESTABLISHMENT OF AT LEAST ONE WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAM IN EACH STATE.

(a) REQUIREMENT.—The Secretary of Defense shall ensure that there is established, by not later than September 30, 2003, at least one Weapons of Mass Destruction Civil Support Team in each State.

(b) DEFINITIONS.—In this section:

(1) The term ''Weapons of Mass Destruction Civil Support Team'' means a team that—

(A) provides support for emergency preparedness programs to prepare for or to respond to any emergency involving the use of a weapon of mass destruction (as defined in section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302)); and

(B) is composed of members of National Guard who are performing duties as members of the team under the authority of subsection (c) of section 12310 of title 10, United States Code, while serving on active duty as described in subsection (a) of such section or on full-time National Guard duty under section 502(f) of title 32, United States Code.

(2) The term ''State'' includes the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

(c) FUNDING.—The costs of establishing Weapons of Mass Destruction Civil Support Teams to comply with the requirement in subsection (a), and the costs of training and equipping the teams established to comply with such requirement, may be paid (to the extent properly allocable on the bases of purpose and period of availability) out of funds authorized to be appropriated for fiscal year 2003 for purposes as follows:

(1) For the Army, for—

(A) military personnel;

(B) operation and maintenance;

(C) other procurement; or

(D) military construction.

(2) For the Air Force for military personnel.

(3) For the Department of Defense for the chemical and biological defense program.

By Mr. SMITH of Oregon:

S. 2909. A bill to amend the Internal Revenue Code of 1986 to make permanent the deduction for qualified tuition and related expenses and to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to such deduction and the extension of the exclusion for employer-provided education assistance; to the Committee on Finance.

Mr. SMITH of Oregon. Mr. President, I come to the floor today to introduce the College Tuition Relief Act of 2002, a bill that will go a long way toward easing the burden of college tuition fees for parents and students across the country.

When President Bush signed the Economic Growth and Tax Relief Reconciliation Act last year, millions of hard working Americans finally got to keep more of their own money so that they could spend it in ways that helped their families most. Too often forgotten, though, is the fact that none of the provisions in that important tax relief bill is permanent. All will expire in a few short years, and, unless we act soon, the American taxpayers will have to adjust their budgets to account for higher taxes once again.

Included in last year's tax relief legislation were two provisions that are of the utmost importance to families and young students struggling to pay the ever-increasing costs of higher education. The first allows taxpayers to deduct as much as $4000 of their college tuition expenses from their taxes every year; the second allows individuals to exclude as much as $5250 in employer-provided education assistance from their taxes, a critically important benefit for a great many Americans attempting to balance school with work, family, and limited budgets.

Because of an unfortunate quirk in the law, both of these provisions will expire after only a few years, and future generations of young people will not receive the benefits of a more affordable education. The solution to this problem is simple: we should make these provisions permanent. My bill does just that. The College Tuition Relief Act of 2002 will simply ensure that future college students will be able to count on their government to support them as they work towards attaining a good education.

The two provisions that this bill will make a permanent part of our tax law have always received broad bipartisan support, and I am confident that none of us wants to take back the help we are currently giving to college students

and the families who so often contribute to their tuition. Even my colleagues who did not vote for last year's tax relief should find it easy to support this bill and, along with it, our Nation's college students.

I ask unanimous consent that the text of the Bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''College Tuition Relief Act of 2002''.

SEC. 2. PERMANENT DEDUCTION FOR QUALIFIED TUITION AND RELATED EXPENSES.

(a) PERMANENT DEDUCTION.—

(1) IN GENERAL.—Section 222 of the Internal Revenue Code of 1986 (relating to qualified tuition and related expenses) is amended by striking subsection (e).

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 222(b)(2) of such Code (relating to applicable dollar limit) is amended by striking ''2004 AND 2005.—In the case of a taxable year beginning in 2004 or 2005,'' and inserting ''2004 AND THEREAFTER.—In the case of any taxable year beginning after 2003,''.

(b) REPEAL OF SUSPENSION.—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new subsection:

''(c) EXCEPTION.—Subsection (a) shall not apply to the amendments made by section 431 (relating to qualified tuition and related expenses).''.

SEC. 3. REPEAL OF APPLICABILITY OF SUNSET OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001 WITH RESPECT TO EXTENSION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new subsection:

''(c) EXCEPTION.—Subsection (a) shall not apply to the amendments made by section 411 (relating to modifications to extension of exclusion for employer-provided educational assistance).''.

By Mr. HUTCHINSON (for himself, Mr. GREGG, Mr. KYL, Mr. CRAIG, Mr. MURKOWSKI, Mr. ALLARD, and Mr. MCCAIN):

S. 2911. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the modifications to education individual retirement accounts; to the Committee on Finance.

Mr. HUTCHINSON. Mr. President, I am pleased to rise today to make permanent a provision included in last year's tax bill, the Coverdell education savings accounts. Congress took an important step last year in providing real options for parents to save for their children's elementary, secondary, and postsecondary educations. It is important now that we ensure that these options do not disappear in the future.

Coverdell education savings accounts provided a new way for parents to save for their child's education. Accounts were increased to a maximum of $2,000, and parents can now use the tax-free savings for not only a college education, but also for elementary and secondary school expenses, including tuition, books, computers, and tutoring. Earnings on contributions to this plan are tax-free due to the tax bill that was passed last year. Now, it is time to continue this commitment to our children.

Parents who want to open an education savings account this year for their child who is five years old have no guarantee that those accounts will exist beyond 2010. Last year's tax bill, as we know, sunsets in 2010. But for this program, parents need to be assured that money they are saving now will be available for college tuitions in 2011 and beyond. With the cost of higher education rising faster than family income, we need to ensure that these saving tools will be available for years to come for families who are preparing for their future and being smart about their money. The average cost of tuition and fees between the 1989–1990 and 2001–2002 school years rose by 8 percent a year at 4-year private colleges and 10 percent a year at 4-year public colleges, while family income rose by only 5 percent annually during that same time period.

Parents should have the assurance that accounts that are started now, and that would not be tapped into for ten to fifteen years, would still be around at that time.

I have started education savings accounts for my grandchildren, who are all infants and toddlers, and I want to know that they will be able to use this money years down the road for elementary or secondary schools or for their college education.

We need to make this benefit permanent now to ensure savings incentives for years to come.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF APPLICABILITY OF SUNSET OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001 WITH RESPECT TO MODIFICATIONS TO EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new subsection:

''(c) EXCEPTION.—Subsection (a) shall not apply to the amendments made by section 401 (relating to modifications to education individual retirement accounts).''.

By Mr. DODD (for himself, Mr. KENNEDY, Mr. WELLSTONE, and Mr. REED):

S. 2912. A bill to provide for educational opportunities for all students in State public school systems, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise to introduce the Student Bill of Rights. This bill is critical to ensuring that every child in America receives the educational opportunity that is the foundation of America's promise of equal opportunity for all.

This bill would hold States accountable for providing the fundamentals of education—including highly qualified teachers, principals, and academic support personnel, challenging curricula, small classes, current textbooks, quality libraries, up-to-date facilities and technology, and capable guidance counselors to students at all schools in the State. Current law requires that schools within the same district provide comparable educational services. This bill would extend that basic protection to the State level by requiring comparability across school districts. And, this bill would help ensure that states comply with State or Federal court orders concerning the fairness of their public school systems.

I want to thank Senators KENNEDY, WELLSTONE, and REED for joining me in introducing this bill and for their longstanding commitment to this issue. I also want to thank Representative CHAKA FATTAH, of Philadelphia. Representative FATTAH is a leader in the fight for educational opportunity for all. He and I have worked together closely on this issue, and he is introducing a similar Student Bill of Rights in the other body today.

Nearly 50 years after Brown v. Board of Education, our educational system remains largely separate and unequal. Whether an American child is taught by a high quality teacher in a small class, has access to the best courses and instructional materials, goes to school in a new, modern building, and otherwise benefits from educational resources that have been shown to be essential to a quality education, still depends on where the child's family can afford to live. In fact, the United States ranks last among developed countries in the difference in the quality of schools available to wealthy and low-income children.

This is simply unacceptable, and it is why the Student Bill of Rights is so important to our children's ability to achieve academically, to gain the skills they need to be responsible, participating citizens in our diverse democracy, and to compete and succeed in the global economy.

Last year, Democrats and Republicans worked closely with President Bush to pass the No Child Left Behind Act, to hold schools accountable for closing the achievement gap for low-income students, minority students, limited-English proficient students, and students with disabilities and to hold them accountable for all students performing at a high level.

I commend the President for his interest in education. Holding schools to high standards of student achievement is critical. But, it's not the same as reaching those standards. If we don't

make sure that every school has the tools it needs, we will be like parents with two children telling them that they expect both children to work hard and do well in school, but that they will only help one of them with their homework, will only allow one of them to use the family's encyclopedia or computer, and will only allow one of them to study in their warm room, while the other must study in the unheated basement.

I know that States have made some progress over the years in leveling the playing field, and that they are facing terrific budgetary pressures. And, I know that the Federal Government is facing budget deficits instead of surpluses, but providing enough resources for education shouldn't be a choice. We don't, and we shouldn't, say that ''We'd like to do more about national security, but times are tough.'' We can't accept that argument for education, either.

This bill does not represent a radical notion. This Congress and last, 42 Senators and 183 Representatives voted for similar legislation that Mr. FATTAH and I offered. A radical notion is the idea that a country founded on the principal of equal opportunity for all can continue to accept an educational system that provides real educational opportunity for just a select few.

That's not to say that only states have to do better. The No Child Left Behind Act rightly requires school districts and schools to do more, and we need to do much, much more in Washington to fulfill our role in this process. More than 90 percent of America's children rely upon public schools, yet less than 2 percent of our entire federal budget is spent on helping our grade schools and high schools. That's only about 7 percent of all education spending.

When he signed the No Child Left Behind Act this January, President Bush promised that the Federal Government would make sure schools have the resources necessary to meet the new law's requirements. But, in February, with the ink on the new law not yet dry, the President sent his education budget to Congress and the resources were not there. In fact, the President took an enormous step backward by proposing to cut Federal support for the No Child Left Behind Act.

For example, more than ten million low-income children attend schools in areas that are eligible for Federal assistance to hire and train teachers and buy textbooks, computers, and other school necessities. The President's education budget would provide only 40 percent of the assistance that these schools need, leaving more than six million children behind. The President's budget also fails to even come close to fully funding the Federal Government's commitment to special education, leaving families and local communities struggling to make up the difference. We will never close the achievement gap as long as our Nation's most disadvantaged students in the neediest schools are forced to make do with far less than other students.

At the same time, the President wants to take nearly $4 billion away from these students and these schools to fund private school vouchers. Private schools provide many children with a good education, but for America to continue to succeed as a Nation, our public schools must also succeed.

And, the way to help them succeed is not to drain resources from them in the vain hope that the answer lies elsewhere, but by making sure that every public school has the resources to provide our children with the education they need and deserve, through measures such as the Student Bill of Rights, fully funding Title I and special education, and others.

In the end, this is about the simple fact that the quality of a child's education shouldn't be determined by the digits of their zip code. This measure corrects that inequity by ensuring that each and every child's school has the resources to provide them with a decent education, and in turn, an equal opportunity for a successful future.

And so, I urge my colleagues to join me in supporting the Student Bill of Rights.

I ask for unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Student Bill of Rights''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) A high-quality, highly competitive education for all students is imperative for the economic growth and productivity of the United States, for its effective national defense, and to achieve the historical aspiration to be one Nation of equal citizens. It is therefore necessary and proper to overcome the nationwide phenomenon of State public school systems that do not meet the requirements of section 101(a), in which high-quality public schools typically serve high-income communities and poor-quality schools typically serve low-income, urban, rural, and minority communities.

(2) There exists in the States a significant educational opportunity gap for low-income, urban, rural, and minority students characterized by the following:

(A) Continuing disparities within States in students' access to the fundamentals of educational opportunity described in section 102.

(B) Highly differential educational expenditures (adjusted for cost and need) among school districts within States.

(C) Radically differential educational achievement among students in school districts within States as measured by the following:

(i) Achievement in mathematics, reading or language arts, and science on State academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)) and on the National Assessment of Educational Progress.

(ii) Advanced placement courses taken.

(iii) SAT and ACT test scores.

(iv) Dropout rates and graduation rates.

(v) College-going and college-completion rates.

(vi) Job placement and retention rates and indices of job quality.

(3) As a consequence of this educational opportunity gap, the quality of a child's education depends largely upon where the child's family can afford to live, and the detriments of lower quality education are imposed particularly on—

(A) children from low-income families;

(B) children living in urban and rural areas; and

(C) minority children.

(4) Since 1785, Congress, exercising the power to admit new States under section 3 of article IV of the Constitution (and previously, the Congress of the Confederation of States under the Articles of Confederation), has imposed upon every State, as a fundamental condition of the State's admission, that the State provide for the establishment and maintenance of systems of public schools open to all children in such State.

(5) Over the years since the landmark ruling in Brown v. Board of Education, 347 U.S. 483, 493 (1954), when a unanimous Supreme Court held that ''the opportunity of an education . . . , where the State has undertaken to provide it, is a right which must be made available to all on equal terms'', courts in 44 States have heard challenges to the establishment, maintenance, and operation of State public school systems that are separate and not educationally adequate.

(6) In 1970, the Presidential Commission on School Finance found that significant disparities in the distribution of educational resources existed among school districts within States because the States relied too significantly on local district financing for educational revenues, and that reforms in systems of school financing would increase the Nation's ability to serve the educational needs of all children.

(7) In 1999, the National Research Council of the National Academy of Sciences published a report entitled ''Making Money Matter, Financing America's Schools'', which found that the concept of funding adequacy,

which moves beyond the more traditional concepts of finance equity to focus attention on the sufficiency of funding for desired educational outcomes, is an important step in developing a fair and productive educational system.

(8) In 2001, the Executive Order establishing the President's Commission on Educational Resource Equity declared, ''A quality education is essential to the success of every child in the 21st century and to the continued strength and prosperity of our Nation. . . . [L]ong-standing gaps in access to educational resources exist, including disparities based on race and ethnicity.'' (Exec. Order No. 13190, 66 Fed. Reg. 5424 (2001))

(9) According to the Secretary of Education, as stated in a letter (with enclosures) from the Secretary to States dated January 19, 2001—

(A) racial and ethnic minorities continue to suffer from lack of access to educational resources, including ''experienced and qualified teachers, adequate facilities, and instructional programs and support, including technology, as well as . . . the funding necessary to secure these resources''; and

(B) these inadequacies are ''particularly acute in high-poverty schools, including urban schools, where many students of color are isolated and where the effect of the resource gaps may be cumulative. In other words, students who need the most may often receive the least, and these students often are students of color.''.

(10) In the amendments made by the No Child Left Behind Act of 2001, Congress—

(A)(i) required each State to establish standards and assessments in mathematics, reading or language arts, and science; and

(ii) required schools to ensure that all students are proficient in mathematics, reading or language arts, and science not later than 12 years after the end of the 2001–2002 school year, and held schools accountable for the students' progress; and

(B) required each State to describe how the State will help local educational agencies and schools to develop the capacity to improve student academic achievement.

(11) The standards and accountability movement will succeed only if, in addition to standards and accountability, all schools have access to the educational resources necessary to enable students to achieve.

(12) Raising standards without ensuring access to educational resources may in fact exacerbate achievement gaps and set children up for failure.

(13) According to the World Economic Forum's Global Competitiveness Report 2001-2002, the United States ranks last among developed countries in the difference in the quality of schools available to rich and poor children.

(14) The persistence of pervasive inadequacies in the quality of education provided by State public school systems effectively deprives millions of children throughout the United States of the opportunity for an education adequate to enable the children to—

(A) acquire the knowledge and skills necessary for responsible citizenship in a diverse democracy, including the ability to participate fully in the political process through informed electoral choice;

(B) meet challenging student academic achievement standards; and

(C) be able to compete and succeed in a global economy.

(15) Each State government has ultimate authority to determine every important aspect and priority of the public school system that provides elementary and secondary education to children in the State, including whether students throughout the State have access to the fundamentals of educational opportunity described in section 102.

(16) Because a well educated populace is critical to the Nation's political and economic well-being and national security, the Federal Government has a substantial interest in ensuring that States provide a high-quality education by ensuring that all students have access to the fundamentals of educational opportunity described in section 102 to enable the students to succeed academically and in life.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To further the goals of the Elementary and Secondary Education Act of 1965 (as amended by the No Child Left Behind Act of 2001), by holding States accountable for providing all students with access to the fundamentals of educational opportunity described in section 102.

(2) To ensure that all students in public elementary schools and secondary schools receive educational opportunities that enable such students to—

(A) acquire the knowledge and skills necessary for responsible citizenship in a diverse democracy, including the ability to participate fully in the political process through informed electoral choice;

(B) meet challenging student academic achievement standards; and

(C) be able to compete and succeed in a global economy.

(3) To end the pervasive pattern of States maintaining public school systems that do not meet the requirements of section 101(a).

TITLE I—EDUCATIONAL OPPORTUNITY IN STATE PUBLIC SCHOOL SYSTEMS

Subtitle A—Access to Educational Opportunity

SEC. 101. STATE PUBLIC SCHOOL SYSTEMS.

(a) REQUIREMENTS.—Each State receiving Federal financial assistance for elementary or secondary education shall ensure that the State's public school system provides all students within the State with an education that enables the students to acquire the knowledge and skills necessary for responsible citizenship in a diverse democracy, including the ability to participate fully in the political process through informed electoral choice, to meet challenging student academic achievement standards, and to be able to compete and succeed in a global economy, through—

(1) the provision of fundamentals of educational opportunity described in section 102, at adequate or ideal levels as defined by the State under section 111(a)(1)(A) to students at each public elementary school and secondary school in the State;

(2) the provision of educational services in school districts that receive funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) that are, taken as a whole, at least comparable to educational services provided in school districts not receiving such funds; and

(3) compliance with any final Federal or State court order in any matter concerning the adequacy or equitableness of the State's public school system.

(b) DETERMINATIONS CONCERNING STATE PUBLIC SCHOOL SYSTEMS.—Not later than October 1 of each year, the Secretary shall determine whether each State maintains a public school system that meets the requirements of subsection (a). The Secretary may make a determination that a State public school system does not meet such requirements only after providing notice and an opportunity for a hearing.

(c) PUBLICATION.—The Secretary shall publish and make available to the general public (including by means of the Internet) the determinations made under subsection (b).

SEC. 102. FUNDAMENTALS OF EDUCATIONAL OPPORTUNITY.

The fundamentals of educational opportunity are the following:

(1) HIGHLY QUALIFIED TEACHERS, PRINCIPALS, AND ACADEMIC SUPPORT PERSONNEL.—

(A) HIGHLY QUALIFIED TEACHERS.—Instruction from highly qualified teachers in core academic subjects.

(B) HIGHLY QUALIFIED PRINCIPALS.—Leadership, management, and guidance from principals who meet State certification standards.

(C) HIGHLY QUALIFIED ACADEMIC SUPPORT PERSONNEL.—Necessary additional academic support in reading or language arts, mathematics, and other core academic subjects from personnel who meet applicable State standards.

(2) RIGOROUS ACADEMIC STANDARDS, CURRICULA, AND METHODS OF INSTRUCTION.—Rigorous academic standards, curricula, and methods of instruction, as measured by the extent to which each school district succeeds in providing high-quality academic standards, curricula, and methods of instruction to students in each public elementary school and secondary school within the district.

(3) SMALL CLASS SIZES.—Small class sizes, as measured by—

(A) the average class size and the range of class sizes; and

(B) the percentage of classes with 17 or fewer students.

(4) TEXTBOOKS, INSTRUCTIONAL MATERIALS, AND SUPPLIES.—Textbooks, instructional materials, and supplies, as measured by—

(A) the average age and quality of textbooks, instructional materials, and supplies used in core academic subjects; and

(B) the percentage of students who begin the school year with school-issued textbooks, instructional materials, and supplies.

(5) LIBRARY RESOURCES.—Library resources, as measured by—

(A) the size and qualifications of the library's staff, including whether the library is staffed by a full-time librarian certified under applicable State standards;

(B) the size (relative to the number of students) and quality (including age) of the library's collection of books and periodicals; and

(C) the library's hours of operation.

(6) SCHOOL FACILITIES AND COMPUTER TECHNOLOGY.—

(A) QUALITY SCHOOL FACILITIES.—Quality school facilities, as measured by—

(i) the physical condition of school buildings and major school building features;

(ii) environmental conditions in school buildings; and

(iii) the quality of instructional space.

(B) COMPUTER TECHNOLOGY.—Computer technology, as measured by—

(i) the ratio of computers to students;

(ii) the quality of computers and software available to students;

(iii) Internet access;

(iv) the quality of system maintenance and technical assistance for the computers; and

(v) the number of computer laboratory courses taught by qualified computer instructors.

(7) QUALITY GUIDANCE COUNSELING.—Qualified guidance counselors, as measured by the ratio of students to qualified guidance counselors who have been certified under an applicable State or national program.

Subtitle B—State Accountability

SEC. 111. STATE ACCOUNTABILITY PLAN.

(a) GENERAL PLAN.—

(1) CONTENTS.—Each State receiving Federal financial assistance for elementary and secondary education shall annually submit to the Secretary a plan, developed by the State educational agency, in consultation

with local educational agencies, teachers, principals, pupil services personnel, administrators, other staff, and parents, that contains the following:

(A) A description of 2 levels of high access (adequate and ideal) to each of the fundamentals of educational opportunity described in section 102 that measure how well the State, through school districts, public elementary schools, and public secondary schools, is achieving the purposes of this Act by providing children with the resources they need to succeed academically and in life.

(B) A description of a third level of access (basic) to each of the fundamentals of educational opportunity described in section 102 that measures how well the State, through school districts, public elementary schools, and public secondary schools, is achieving the purposes of this Act by providing children with the resources they need to succeed academically and in life.

(C) A description of the level of access of each school district, public elementary school, and public secondary school in the State to each of the fundamentals of educational opportunity described in section 102, including identification of any such schools that lack high access (as described in subparagraph (A)) to any of the fundamentals.

(D) An estimate of the additional cost, if any, of ensuring that the system meets the requirements of section 101(a).

(E) Information stating the percentage of students in each school district, public elementary school, and public secondary school in the State that are proficient in mathematics, reading or language arts, and science, as measured through assessments administered as described in section 1111(b)(3)(C)(v) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(v)).

(F) Information stating whether each school district, public elementary school, and public secondary school in the State is making adequate yearly progress, as defined under section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)).

(G)(i) For each school district, public elementary school, and public secondary school in the State, information stating—

(I) the number and percentage of children counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); and

(II) the number and percentage of students described in section 1111(b)(3)(C)(xiii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(xiii)).

(ii) For each such school district, information stating whether the district is an urban, mixed, or rural district (as defined by the National Center for Education Statistics).

(2) LEVELS OF ACCESS.—For purposes of the plan submitted under paragraph (1)—

(A) in defining basic, adequate, and ideal levels of access to each of the fundamentals of educational opportunity, each State shall consider, in addition to the factors described in section 102, the access available to students in the highest-achieving decile of public elementary schools and secondary schools, the unique needs of low-income, urban and rural, and minority students, and other educationally appropriate factors; and

(B) the levels of access described in subparagraphs (A) and (B) of paragraph (1) shall be aligned with the challenging academic content standards, challenging student academic achievement standards, and high-quality academic assessments required under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(3) INFORMATION.—The State shall annually disseminate to parents, in an understandable and uniform format, the descriptions, estimate, and information described in paragraph (1).

(b) ACCOUNTABILITY AND REMEDIATION.—

(1) ACCOUNTABILITY.—If the Secretary determines under section 101(b) that a State maintains a public school system that fails to meet the requirements of section 101(a)(1), the plan submitted under subsection (a)(1) shall—

(A) demonstrate that the State has developed and is implementing a single, statewide State accountability system that will be effective in ensuring that the State makes adequate yearly progress under this Act (as defined by the State in a manner that annually reduces the number of public elementary schools and secondary schools in the State without high access (as described in subsection (a)(1)(A)) to each of the fundamentals of educational opportunity described in section 102);

(B) demonstrate, based on the levels of access described in paragraph (1) what constitutes adequate yearly progress of the State under this Act toward providing all students with high access to the fundamentals of educational opportunity described in section 102; and

(C) ensure—

(i) the establishment of a timeline for that adequate yearly progress that includes interim yearly goals for the reduction of the number of public elementary schools and secondary schools in the State without high access to each of the fundamentals of educational opportunity described in section 102; and

(ii) that not later than 12 years after the end of the 2001–2002 school year, each public elementary or secondary school in the State shall have high access to each of the fundamentals of educational opportunity described in section 102.

(2) REMEDIATION.—If the Secretary determines under section 101(b) that a State maintains a public school system that fails to meet the requirements of section 101(a)(2), not later than 1 year after the Secretary makes the determination, the State shall include in the plan submitted under subsection (a)(1) a strategy to remediate the conditions that caused the Secretary to make such determination, not later than the end of the second school year beginning after submission of the plan.

(c) AMENDMENTS.—A State may amend the plan submitted under subsection (a)(1) to improve the plan or to take into account significantly changed circumstances.

(d) DISAPPROVAL.—The Secretary may disapprove the plan submitted under subsection (a)(1) (or an amendment to such a plan) if the Secretary determines, after notice and opportunity for hearing, that the plan (or amendment) is inadequate to meet the requirements described in subsections (a) and (b).

(e) WAIVER.—

(1) IN GENERAL.—A State may request, and the Secretary may grant, a waiver of the requirements of subsections (a) and (b) for 1 year for exceptional circumstances, such as a precipitous decrease in State revenues, or another circumstance that the Secretary determines to be exceptional, that prevents a State from complying with the requirements of subsections (a) and (b).

(2) CONTENTS OF WAIVER REQUEST.—A State that requests a waiver under paragraph (1) shall include in the request—

(A) a description of the exceptional circumstance that prevents the State from complying with the requirements of subsections (a) and (b); and

(B) a plan that details the manner in which the State will comply with such requirements by the end of the waiver period.

SEC. 112. CONSEQUENCES OF FAILURE TO MEET REQUIREMENTS.

(a) INTERIM YEARLY GOALS.—

(1) IN GENERAL.—For a fiscal year and a State described in section 111(b)(1), the Secretary shall withhold from the State 2.75 percent of funds otherwise available to the State for the administration of Federal elementary and secondary education programs, for each covered goal that the Secretary determines the State is not meeting during that year.

(2) DEFINITION.—In this subsection, the term ''covered goal'', used with respect to a fiscal year, means an interim yearly goal described in section 111(b)(1)(C)(i) that is applicable to that year or a prior fiscal year.

(b) CONSEQUENCES OF NONREMEDIATION.—Notwithstanding any other provision of law, if the Secretary determines that a State required to include a strategy under section 111(b)(2) continues to maintain a public school system that does not meet the requirements of section 101(a)(2) at the end of the second school year described in section 111(b)(2), the Secretary shall withhold from the State not more than 33 ⅓ percent of funds otherwise available to the State for the administration of Federal elementary and secondary education programs until the Secretary determines that the State maintains a public school system that meets the requirements of section 101(a)(2).

(c) CONSEQUENCES OF NONCOMPLIANCE WITH COURT ORDERS.—If the Secretary determines under section 101(b) that a State maintains a public school system that fails to meet the requirements of section 101(a)(3), the Secretary shall withhold from the State not more than 33 ⅓ percent of funds otherwise available to the State for the administration of Federal elementary and secondary education programs.

(d) DISPOSITION OF FUNDS WITHHELD.—

(1) DETERMINATION.—Not later than 1 year after the Secretary withholds funds from a State under this section, the Secretary shall determine whether the State has corrected the condition that led to the withholding.

(2) DISPOSITION.—

(A) CORRECTION.—If the Secretary determines under paragraph (1), that the State has corrected the condition that led to the withholding, the Secretary shall make the withheld funds available to the State to use for the original purpose of the funds during 1 or more fiscal years specified by the Secretary.

(B) NONCORRECTION.—If the Secretary determines under paragraph (1), that the State has not corrected the condition that led to the withholding, the Secretary shall allocate the withheld funds to public school districts, public elementary schools, or public secondary schools in the State that are most adversely affected by the condition that led to the withholding, to enable the districts or schools to correct the condition during 1 or more fiscal years specified by the Secretary.

(3) AVAILABILITY.—Amounts made available or allocated under subparagraph (A) or (B) of paragraph (2) shall remain available during the fiscal years specified by the Secretary under that subparagraph.

Subtitle C—Report to Congress and the Public

SEC. 121. ANNUAL REPORT ON STATE PUBLIC SCHOOL SYSTEMS.

(a) ANNUAL REPORT TO CONGRESS.—Not later than October 1 of each year, beginning the year after completion of the first full school year after the date of enactment of this Act, the Secretary shall submit to Congress a report that includes a full and complete analysis of the public school system of each State.

(b) CONTENTS OF REPORT.—The analysis conducted under subsection (a) shall include the following:

(1) PUBLIC SCHOOL SYSTEM INFORMATION.—The following information related to the public school system of each State:

(A) The number of school districts, public elementary schools, public secondary schools, and students in the system.

(B)(i) For each such school district and school—

(I) information stating the number and percentage of children counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); and

(II) the number and percentage of students, disaggregated by groups described in section 1111(b)(3)(C)(xiii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(xiii)).

(ii) For each such district, information stating whether the district is an urban, mixed, or rural district (as defined by the National Center for Education Statistics).

(C) The average per-pupil expenditure (both in actual dollars and adjusted for cost and need) for the State and for each school district in the State.

(D) Each school district's decile ranking as measured by achievement in mathematics, reading or language arts, and science on State academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)) and on the National Assessment of Educational Progress.

(E) For each school district, public elementary school, and public secondary school—

(i) the level of access (as described in section 111(a)(1)) to each of the fundamentals of educational opportunity described in section 102;

(ii) the percentage of students that are proficient in mathematics, reading or language arts, and science, as measured through assessments administered as described in section 1111(b)(3)(C)(v) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(v)); and

(iii) whether the school district or school is making adequate yearly progress—

(I) as defined under section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)); and

(II) as defined by the State under section 111(b)(1)(A).

(F) For each State, the number of public elementary schools and secondary schools that lack, and names of each such school that lacks, high access (as described in section 111(a)(1)(A)) to any of the fundamentals of educational opportunity described in section 102.

(G) For the year covered by the report, a summary of any changes in the data required in subparagraphs (A) through (F) for each of the preceding 3 years (which may be based on such data as are available, for the first 3 reports submitted under subsection (a)).

(H) Such other information as the Secretary considers useful and appropriate.

(2) STATE ACTIONS.—For each State that the Secretary determines under section 101(b) maintains a public school system that fails to meet the requirements of section 101(a), a detailed description and evaluation of the success of any actions taken by the State, and measures proposed to be taken by the State, to meet the requirements.

(3) STATE PLANS.—A copy of each State's most recent plan submitted under section 111(a)(1).

(4) RELATIONSHIP BETWEEN COMPLIANCE AND ACHIEVEMENT.—An analysis of the relationship between meeting the requirements of section 101(a) and improving student academic achievement, as measured on State academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)).

(c) SCOPE OF REPORT.—The report required under subsection (a) shall cover the school year ending in the calendar year in which the report is required to be submitted.

(d) SUBMISSION OF DATA TO SECRETARY.—Each State receiving Federal financial assistance for elementary and secondary education shall submit to the Secretary, at such time and in such manner as the Secretary may reasonably require, such data as the Secretary determines to be necessary to make a determination under section 101(b) and to submit the report under this section. Such data shall include the information used to measure the State's success in providing the fundamentals of educational opportunity described in section 102.

(e) FAILURE TO SUBMIT DATA.—If a State fails to submit the data that the Secretary determines to be necessary to make a determination under section 101(b) regarding whether the State maintains a public school system that meets the requirements of section 101(a)—

(1) such State's public school system shall be deemed not to have met the applicable requirements until the State submits such data and the Secretary is able to make such determination under section 101(b); and

(2) the Secretary shall provide, to the extent practicable, the analysis required in subsection (a) for the State based on the best data available to the Secretary.

(f) PUBLICATION.—The Secretary shall publish and make available to the general public (including by means of the Internet) the report required under subsection (a).

Subtitle D—Remedy

SEC. 131. CIVIL ACTION FOR ENFORCEMENT.

A student or parent of a student aggrieved by a violation of this Act may bring a civil action against the appropriate official in an appropriate Federal district court seeking declaratory or injunctive relief to enforce the requirements of this Act, together with reasonable attorney's fees and the costs of the action.

TITLE II—EFFECTS OF EDUCATIONAL DISPARITIES ON ECONOMIC GROWTH AND NATIONAL DEFENSE

SEC. 201. EFFECTS ON ECONOMIC GROWTH AND PRODUCTIVITY.

(a) STUDY.—The Commissioner of Education Statistics, in consultation with the Secretary of Commerce, Secretary of Labor, Secretary of the Treasury, and the National Research Council of the National Academy of Sciences, shall conduct a comprehensive study concerning the effects on economic growth and productivity of ensuring that each State public school system meets the requirements of section 101(a). Such study shall include assessments of—

(1) the economic costs to the Nation resulting from the maintenance by States of public school systems that do not meet the requirements of section 101(a);

(2) the economic gains to be expected from States' compliance with the requirements of section 101(a); and

(3) the costs, if any, of ensuring that each State maintains a public school system that meets the requirements of section 101(a).

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Commissioner of Education Statistics shall submit to Congress a final report detailing the results of the study required under subsection (a).

SEC. 202. EFFECTS ON NATIONAL DEFENSE.

(a) STUDY.—The Commissioner of Education Statistics, in consultation with the Secretary of Defense, shall conduct a comprehensive study concerning the effects on national defense of ensuring that each State public school system meets the requirements of section 101(a). Such study shall include assessments of—

(1) the detriments to national defense resulting from the maintenance by States of public school systems that do not meet the requirements of section 101(a), including the effects on—

(A) knowledge and skills necessary for the effective functioning of the Armed Forces;

(B) the costs to the Armed Forces of training; and

(C) efficiency resulting from the use of sophisticated equipment and information technology; and

(2) the gains to national defense to be expected from ensuring that each State public school system meets the requirements of section 101(a).

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Commissioner of Education Statistics shall submit to Congress a final report detailing the results of the study required under subsection (a).

TITLE III—GENERAL PROVISIONS

SEC. 301. DEFINITIONS.

In this Act:

(1) REFERENCED TERMS.—The terms ''elementary school'', ''secondary school'', ''local educational agency'', ''highly qualified'', ''core academic subjects'', ''parent'', and ''average per-pupil expenditure'' have the meanings given those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) FEDERAL ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.—The term ''Federal elementary and secondary education programs'' means programs providing Federal financial assistance for elementary or secondary education, other than programs under the following provisions of law:

(A) The Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(B) Title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6801 et seq.).

(C) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(D) The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(3) PUBLIC SCHOOL SYSTEM.—The term ''public school system'' means a State's system of public elementary and secondary education.

(4) STATE.—The term ''State'' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 302. RULEMAKING.

The Secretary may prescribe regulations to carry out this Act.

SEC. 303. CONSTRUCTION.

Nothing in this Act shall be construed to require a jurisdiction to increase its property tax or other tax rates or to redistribute revenues from such taxes.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 322—DESIGNATING NOVEMBER 2002, AS ''NATIONAL EPILEPSY AWARENESS MONTH''

Mrs. LINCOLN (for herself, Ms. COLLINS, Ms. LANDRIEU, Mr. HUTCHINSON, and Mr. FITZGERALD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 322

Whereas epilepsy is a neurological condition affecting 2,300,000 people in the United States;

Whereas a seizure is a disturbance in the electrical activity of the brain, and 25,000,000 Americans (1 in every 10) will have at least 1 seizure during their lives;

Whereas 180,000 new cases of seizures and epilepsy are diagnosed each year, and 3 percent of Americans will have developed epilepsy by the time they are 75;

Whereas 41 percent of people who currently have epilepsy experience persistent seizures despite the treatment they are receiving;

Whereas a survey sponsored by the Centers for Disease Control and Prevention shows that the burden of disease for people with epilepsy is comparable to that experienced by people with cancer, diabetes, and arthritis;

Whereas epilepsy in older children and adults remains a formidable barrier to a normal life, affecting education, employment, marriage, childbearing, and personal fulfillment;

Whereas stigma surrounding epilepsy continues to fuel discrimination and isolates people with seizure disorders from the mainstream life;

Whereas in spite of these obstacles, epileptics can live healthy and productive lives and go on to make significant contributions to society;

Whereas we must ensure that funding for epilepsy research programs at the National Institutes of Health, and for epilepsy programs at the Centers for Disease Control and Prevention must continue to increase; and

Whereas we must ensure that people with epilepsy in underserved and unserved areas of the country have access to appropriate care, and to this end it is essential that the epilepsy program at the Health Resources and Services Administration receive initial funding to create demonstration projects to improve access to services in those communities: Now, therefore, be it

Resolved, That the Senate—

(1) designates November 2002, as ''National Epilepsy Awareness Month''; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Mrs. LINCOLN. Mr. President, today I would like to submit a resolution about an important health disorder which affects 2.3 million Americans and 40,000 people in Arkansas. I am referring to epilepsy.

Epilepsy is a chronic neurological disorder; people with this disorder may have seizures which may be as brief as a few seconds, or as traumatic as several minutes and visibly distracting. Several months ago, I had the opportunity to meet with a young man from Arkansas who has epilepsy and is a spokesperson for the Epilepsy Foundation, as part of their Winning Kids program, representing 300,000 children with this disease. Additionally, he is a role model for his peers in Arkansas due to his courage. His name is Bryan Raymond. As he said in a speech to other children in March, ''We are all different. Some of us hardly ever have seizures. Some of us have lots and lots of seizures. But we all want the same things. We want to be busy and happy. We want to go to school. We want to have friends. We want to play and have fun. We want other kids to understand what seizures are, and to respect us.'' The one thing he asked me, and I ask of you is that we teach our children and our communities about a better understanding about this disease. School-age children have a better understanding of HIV/AIDS and cancer than epilepsy. We must educate our children about this disease in order to allow these patients to thrive.

In addition to the touching conversation I had with Bryan and his mother earlier this year, this disease is even closer to home for me. A young woman on my staff is diagnosed with this condition. Amy is here with me today for several reasons. First, she has provided a good first-hand account/knowledge of what epilepsy is and how it affects daily life. Second, she signifies the success which epileptics can have, like people from every other walk of life, when dealing with chronic conditions. To that end, this resolution is intended to serve two goals: to raise awareness about this disease, which in turn affects perception/stereotypes, and to increase funding for the long-term research for and care of patients.

Presently, doctors tell their patients that there is no cure for epilepsy. Rather the solution is long-term medication or surgery. It is critical that we increase the funding committed to epilepsy. As far as we have advanced in other areas of medicine, even other neurological disorders, we must give equal time and resources to a cure for epilepsy.

I would like to move that we establish the month of November as National Epilepsy Awareness Month. This is one small step toward the larger goal of overcoming epilepsy. As with other chronic illnesses, overcoming epilepsy is achieved in part through perception and part through science and medicine. Cancer, which was previously stigmatized to be terminal, is now more candidly discussed among patients and families and leagues ahead in research. I hope that this will be true as well with epilepsy.

I urge my colleagues to support the resolution.

SENATE RESOLUTION 323—TO AUTHORIZE TESTIMONY AND REPRESENTATION I SENATOR MITCH MCCONNELL, ET. AL. V. FEDERAL ELECTION COMMISSION, ET. AL. AND CONSOLIDATION CASES

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 323

Whereas, in the case of Senator Mitch McConnell, et al. v. Federal Election Commission, et al., No. 02–CV–582, and consolidated cases, pending in the United States District Court for the District of Columbia, notices for the taking of depositions have been served on Senator Mitch McConnell, who is a plaintiff, and Senators Olympia Snowe, James Jeffords, John McCain, and Russell Feingold, who are intervenor-defendants;

Whereas, pursuant to sections 703(c) and 706(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(c) and 288e(a), the Senate may direct its counsel to appear as amicus curiae in the name of the Senate in any legal proceeding in which the powers and responsibilities of Congress under the Constitution are placed in issue;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That, in the case of Senator Mitch McConnell, et al. v. Federal Election Commission, et al., and consolidated cases, Senators Mitch McConnell, Olympia Snowe, James Jeffords, John McCain, and Russell Feingold, and any other Senator who agrees to participate in this litigation, are authorized to testify, except concerning matters for which a privilege should be asserted and when their attendance at the Senate is necessary for the performance of their legislative duties.

SEC. 2. That the Senate Legal Counsel is authorized to appear as amicus curiae in the name of the Senate in the case of Senator Mitch McConnell, et al. v. Federal Election Commission, et al., and consolidated cases, the represent the interests of the Senate in connection with discovery sought from Senators in these cases.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4493. Mr. BYRD (for Mrs. MURRAY) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

SA 4494. Mr. BURNS (for Mr. CAMPBELL) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4495. Mr. BYRD (for Mr. LEAHY (for himself, Mr. COCHRAN, and Mr. FRIST)) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4496. Mr. BURNS (for Ms. COLLINS (for himself and Ms. SNOWE)) submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4497. Mr. BYRD (for Mr. GRAHAM (for himself and Mr. NELSON, of Florida)) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4498. Mr. BURNS (for Mrs. HUTCHISON) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4499. Mr. BURNS (for Mr. KYL) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4500. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4501. Mr. GRASSLEY submitted an amendment intended to be proposed to

amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4502. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4503. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4504. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4505. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4506. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4507. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table.

SA 4508. Mr. FEINGOLD (for himself, Mr. LEAHY, Mr. KOHL, and Mr. TORRICELLI) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4509. Mr. FEINGOLD (for himself, Mr. LEAHY, Mr. KOHL, and Mr. TORRICELLI) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4510. Mr. BAYH (for himself and Mr. SHELBY) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4511. Mr. REID (for Mr. JEFFORDS (for himself and Mr. SMITH, of New Hampshire)) proposed an amendment to the bill S. 351, to amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting the use of mercury fever thermometers and improving the collection and proper management of mercury, and for other purposes.

TEXT OF AMENDMENTS

SA 4493. Mr. BYRD (for Mrs. MURRAY) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

On page 22, line 23, strike ''$62,828,000'' and insert ''$63,228,000, of which $400,000 shall be made available for statutory and contractual aid for the Vancouver National Historic Reserve in the State of Washington''.

On page 24, line 13, strike ''$361,915,000'' and insert ''$361,515,000''.

SA 4494. Mr. BURNS (for Mr. CAMPBELL) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

Beginning on page 62, strike line 22 and all that follows through page 63, line 2, and insert the following:

of transportation services at Zion National Park or Rocky Mountain National Park, the Secretary of the Interior may obligate the expenditure of fees expected to be received in that fiscal year before the fees are received, so long as total obligations do not exceed fee collections retained at Zion National Park or Rocky Mountain National Park, respectively, by the end of that fiscal year.

SA 4495. Mr. BYRD (for Mr. LEAHY (for himself, Mr. COCHRAN, and Mr. FRIST)) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

(Purpose: To permit the use of a single procurement contract by the Smithsonian Institution for a multi-year repair and renovation of the Patent Office Building, subject to the availability of annual appropriations.)

On page 102, at the end of line 26, add the following:

'Provided, That notwithstanding any other provision of law, a single procurement contract for the repair and renovation of the Patent Office Building may be issued which includes the full scope of the project. Provided further, That the solicitation of the contract and the contract shall contain the clause 'availability of funds' found at 48 C.F.R. 52.232–18.' ''

SA 4496. Mr. BURNS (for Ms. COLLINS (for herself, and Ms. SNOWE)) submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

On page 13, line 19, insert the following after the colon:

'': *Provided further*, That of the funds available for endangered species recovery, $1,500,000 is for Atlantic salmon recovery activities administered by the National Fish and Wildlife Foundation and $500,000 is for the United States Fish and Wildlife Service to undertake Atlantic salmon recovery efforts in Maine''

SA 4497. Mr. BYRD (for Mr. GRAHAM (for himself and Mr. NELSON of Florida)) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

On page 127, between lines 2 and 3, insert the following:

SEC. 3____. MODIFIED WATER DELIVERY PROJECT IN THE STATE OF FLORIDA.

Notwithstanding any other provision of law, the Corps of Engineers, using funds made available by this Act and funds made available under any Act enacted before the date of enactment of this Act for modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r–8), shall immediately carry out alternative 6D (including paying 100 percent of the cost of acquiring land or an interest in land) for the purpose of providing a flood protection system for the 8.5 square mile area described in the report entitled ''Central and South Florida Project, Modified Water Deliveries to Everglades National Park, Florida, 8.5 Square Mile Area, General Reevaluation Report and Final Supplemental Environmental Impact Statement'' and dated July 2000.

SA 4498. Mr. BURNS (for Mrs. HUTCHISON) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

On page 14, lines 11 and 12, strike ''$42,182,000, to remain available until expended:'' and insert ''$42,682,000, to remain available until expended, of which $500,000 shall be made available for the World Birding Center in Mission, Texas:''.

On page 14, line 26, strike ''$89,055,000'' and insert ''$88,555,000''.

On page 15, line 5, insert '', of which $500,000 shall be made available for the Lower Rio Grande Valley National Wildlife Refuge'' before the colon.

SA 4499. Mr. BURNS (for Mr. KYL) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

On page 64, between lines 15 and 16, insert the following:

SEC. 1____. COLORADO RIVER MANAGEMENT PLAN.

Not less often than annually, the Director of the National Park Service shall report to Congress on the status of the Colorado River Management Plan.

SA 4500. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 127, after line 2, add the following:

TITLE IV—EMERGENCY FUNDING FOR FIREFIGHTERS AND OTHER EMERGENCY RESPONDERS

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for ''Public Health and Social Services Emergency Fund'' for baseline and follow-up screening and clinical examinations, long-term health monitoring and analysis for the emergency services personnel, rescue and recovery personnel, $90,000,000, to remain available until expended, of which no less than $25,000,000 shall be available for current and retired firefighters: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced

Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress.

FEDERAL EMERGENCY MANAGEMENT AGENCY

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For an additional amount for ''Emergency management planning and assistance'' for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, $200,000,000 to remain available until September 30, 2003, of which $150,000,000 is for programs authorized by section 33 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.) and $50,000,000 for interoperable communications equipment: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress.

DEPARTMENT OF JUSTICE

COMMUNITY ORIENTED POLICING SERVICES

For an amount to establish the Community Oriented Policing Services' Interoperable Communications Technology Program in consultation with the Office of Science and Technology within the National Institute of Justice, and the Bureau of Justice Assistance, for emergency expenses for activities related to combating terrorism by providing grants to States and localities to improve communications within, and among, law enforcement agencies, $50,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress.

SA 4501. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 22, strike lines 1 through 16 and insert the following:

(A) IN GENERAL.—The Secretary shall assign employees of the Department to each diplomatic and consular post at which visas are issued, unless the Secretary determines, based upon homeland security considerations, that such an assignment is not required at a particular post. Employees so assigned shall perform the following functions:

(i) Provide expert advice to consular officers regarding specific security threats relating to the adjudication of individual visa applications or classes of applications.

(ii) Review any such applications, either on the initiative of the employee of the Department or upon request by a consular officer or other person charged with adjudicating such applications.

(iii) Conduct investigations with respect to matters under the jurisdiction of the Secretary.

(iv) Appraise the performance of consular officers with respect to the processing and adjudication of applications for visas in accordance with performance standards developed by the Secretary. Such appraisals shall be given great weight by the Secretary of State in assessing the performance of such officers.

SA 4502. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table, as follows:

On page 37, line 21, strike ''and''.

On page 37, between lines 21 and 22, insert the following:

(3) ensure that all employees of the Department are informed of their rights and remedies under chapters 12 and 23 of title 5, United States Code, by—

(A) participating in the 2302(c) Certification Program of the Office of Special Counsel;

(B) achieving certification from the Office of Special Counsel of the Department's compliance with section 2302(c) of title 5, United States Code; and

(C) informing Congress of such certification not later than 24 months after the date of enactment of this Act; and

On page 37, line 22, strike ''(3)'' and insert ''(4)''.

SA 4503. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table, as follows:

On page 68, insert between lines 13 and 14 the following:

(d) INCLUSIONS IN TRANSFERS.—The transfers under subsection (c) shall include—

(1) with respect to personnel, all employees of the transferred entity who are employed by that entity on September 1, 2002, except any employee who is scheduled for reassignment before that date; and

(2) with respect to assets—

(A) all records relating to open investigations;

(B) training capabilities;

(C) operational proprietary hardware and software in use on September 1, 2002; and

(D) partnerships with private entities.

SA 4504. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, between lines 13 and 14, insert the following:

SEC. 173. SENSE OF CONGRESS.

It is the sense of Congress that the Secretary should develop and maintain intelligence analysts from among the employees of the Directorate of Intelligence.

SA 4505. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, between lines 13 and 14, insert the following:

SEC. 173. INFORMATION ON VISA DENIALS REQUIRED TO BE ENTERED INTO ELECTRONIC DATA SYSTEM.

(a) IN GENERAL.—Whenever a consular officer of the United States denies a visa to an applicant, the consular officer shall enter the fact of the denial and the name of the applicant into the interoperable electronic data system implemented under section 202(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1722(a)).

(b) PROHIBITION.—In the case of any alien with respect to whom a visa has been denied under subsection (a)—

(1) no subsequent visa may be issued; and

(2) the alien may not be admitted to the United States.

SA 4506. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, between lines 13 and 14, insert the following:

SEC. 173. STUDY ON USE OF FOREIGN NATIONAL PERSONNEL IN VISA PROCESSING.

(a) STUDY.—The Secretary shall conduct a study on the use of foreign national personnel in visa processing to determine whether such uses are consistent with secure visa processing. The study shall review and make recommendations with respect to—

(1) the effects or possible effects on national security of the use of foreign national personnel in individual countries to perform data entry, process visas or visa applications, or in any way handle visas or visa application documents; and

(2) each United States mission abroad to determine whether United States consular services performed at the United States mission require different regulations on the use of foreign national personnel.

(b) USE OF RECOMMENDATIONS.—Not later than four months after the effective date of this division, the Secretary, in consultation with the Secretary of State, shall include the recommendations made by the study required under subsection (a) in the regulations and policies of consular services that the Secretary of Homeland Security is required to promulgate under this Act.

SA 4507. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

TITLE IV—EMERGENCY FUNDING FOR FIREFIGHTERS AND OTHER EMERGENCY RESPONDERS

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for ''Public Health and Social Services Emergency Fund'' for baseline and follow-up screening and clinical examinations, long-term health monitoring and analysis for the emergency services personnel, rescue and recovery personnel, $90,000,000, to be available immediately upon enactment of this Act and to remain available until expended, of which no less than $25,000,000 shall be available for current and retired firefighters: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL EMERGENCY MANAGEMENT AGENCY

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For an additional amount for ''Emergency management planning and assistance'' for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, $200,000,000 to be available immediately upon enactment of this Act and to remain available until September 30, 2003, of which $150,000,000 is for programs authorized by section 33 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.) and $50,000,000 for interoperable communications equipment: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF JUSTICE

COMMUNITY ORIENTED POLICING SERVICES

For an amount to establish the Community Oriented Policing Services' Interoperable Communications Technology Program in consultation with the Office of Science and Technology within the National Institute of Justice, and the Bureau of Justice Assistance, for emergency expenses for activities related to combating terrorism by providing grants to States and localities to improve communications within, and among, law enforcement agencies, $50,000,000, to be available immediately upon enactment of this Act and to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SA 4508. Mr. FEINGOLD (for himself, Mr. LEAHY, Mr. KOHL, and Mr. TORRICELLI) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 210, between lines 9 and 10, insert the following:

TITLE VI—WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAMS

SEC. 601. SHORT TITLE.

This title may be cited as the ''Weapons of Mass Destruction Civil Support Team Act of 2002''.

SEC. 602. ESTABLISHMENT OF AT LEAST ONE WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAM IN EACH STATE.

The Secretary of Defense shall ensure that there is established, by not later than September 30, 2003, at least one Weapons of Mass Destruction Civil Support Team in each State.

SEC. 603. DEFINITIONS.

In this title:

(1) WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAM.—The term ''Weapons of Mass Destruction Civil Support Team'' means a team that—

(A) provides support for emergency preparedness programs to prepare for or to respond to any emergency involving the use of a weapon of mass destruction (as defined in section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302)); and

(B) is composed of members of National Guard who are performing duties as members of the team under the authority of subsection (c) of section 12310 of title 10, United States Code, while serving on active duty as described in subsection (a) of such section or on full-time National Guard duty under section 502(f) of title 32, United States Code.

(2) STATE.—The term ''State'' includes the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

SEC. 604. FUNDING.

The costs of establishing Weapons of Mass Destruction Civil Support Teams to comply with the requirement in section 602, and the costs of training and equipping the teams established to comply with such requirement, may be paid (to the extent properly allocable on the bases of purpose and period of availability) out of funds authorized to be appropriated for fiscal year 2003 for purposes as follows:

(1) For the Army, for—

(A) military personnel;

(B) operation and maintenance;

(C) other procurement; or

(D) military construction.

(2) For the Air Force for military personnel.

(3) For the Department of Defense for the chemical and biological defense program.

SA 4509. Mr. FEINGOLD (for himself, Mr. LEAHY, Mr. KOHL, and Mr. TORRICELLI) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 211, between lines 9 and 10, insert the following:

TITLE VI—WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAMS

SEC. 601. SHORT TITLE.

This title may be cited as the ''Weapons of Mass Destruction Civil Support Team Act of 2002''.

SEC. 602. ESTABLISHMENT OF AT LEAST ONE WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAM IN EACH STATE.

The Secretary of Defense shall ensure that there is established, by not later than September 30, 2003, at least one Weapons of Mass Destruction Civil Support Team in each State.

SEC. 603. DEFINITIONS.

In this title:

(1) WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAM.—The term ''Weapons of Mass Destruction Civil Support Team'' means a team that—

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(B) is composed of members of National Guard who are performing duties as members of the team under the authority of subsection (c) of section 12310 of title 10, United States Code, while serving on active duty as described in subsection (a) of such section or on full-time National Guard duty under section 502(f) of title 32, United States Code.

(2) STATE.—The term ''State'' includes the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

SEC. 604. FUNDING.

The costs of establishing Weapons of Mass Destruction Civil Support Teams to comply with the requirement in section 602, and the costs of training and equipping the teams established to comply with such requirement, may be paid (to the extent properly allocable on the bases of purpose and period of availability) out of funds authorized to be appropriated for fiscal year 2003 for purposes as follows:

(1) For the Army, for—

(A) military personnel;

(B) operation and maintenance;

(C) other procurement; or

(D) military construction.

(2) For the Air Force for military personnel.

(3) For the Department of Defense for the chemical and biological defense program.

SA 4510. Mr. BAYH (for himself and Mr. SHELBY) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 211, between lines 9 and 10, insert the following:

TITLE VI—STRENGTHENED TEMPORARY FLIGHT RESTRICTIONS FOR THE PROTECTION OF CHEMICAL WEAPONS STORAGE DEPOTS

SEC. 601. ENFORCEMENT OF TEMPORARY FLIGHT RESTRICTIONS.

(a) IMPROVED ENFORCEMENT.—The Secretary of Defense shall take such actions as may be necessary to improve the enforcement of temporary flight restrictions applicable to Department of Defense depots for the storage of lethal chemical agents and munitions.

(b) ASSESSMENT OF USE OF COMBAT AIR PATROLS AND EXERCISES.—The Secretary shall include among the actions taken under subsection (a) an assessment of the effectiveness, in terms of deterrence and capabilities for timely response, of current requirements for carrying out combat air patrols and flight training exercises involving combat aircraft over the depots referred to in such subsection.

SEC. 602. REPORTS ON UNAUTHORIZED INCURSIONS INTO RESTRICTED AIRSPACE.

(a) REQUIREMENT FOR REPORT.—The Administrator of the Federal Aviation Administration shall submit to Congress a report on each incursion of an aircraft into airspace in the vicinity of Department of Defense depots for the storage of lethal chemical agents and munitions in violation of temporary flight restrictions applicable to that airspace. The report shall include a discussion of the actions, if any, that the Administrator has taken or is taking in response to or as a result of the incursion.

(b) TIME FOR REPORT.—The report required under subsection (a) regarding an incursion described in such subsection shall be submitted not later than 30 days after the occurrence of the incursion.

SEC. 603. REVIEW AND REVISION OF TEMPORARY FLIGHT RESTRICTIONS.

(a) REQUIREMENT TO REVIEW AND REVISE.—The Secretary of Defense shall—

(1) review the temporary flight restrictions that are applicable to airspace in the vicinity of Department of Defense depots for the storage of lethal chemical agents and munitions, including altitude and radius restrictions; and

(2) revise the restrictions as the Secretary considers appropriate to ensure sufficient opportunity for—

(A) detection of incursions of aircraft into such airspace; and

(B) response to protect such agents and munitions effectively from threats associated with the incursions.

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the actions taken under subsection (a). The report shall contain the following:

(1) The matters considered in the review required under that subsection.

(2) The revisions of temporary flight restrictions that have been made or are planned to be made as a result of the review, together with a discussion of how those revisions ensure the attainment of the objectives specified in paragraph (2) of such subsection.

SA 4511. Mr. REID (for Mr. JEFFORDS (for himself and Mr. SMITH of New Hampshire)) proposed an amendment to the bill S. 351, to amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting the use of mercury fever thermometers and improving the collection and proper management of mercury, and for other purposes; as follows:

On page 16, strike lines 4 through 6.

On page 16, line 7, strike ''(7)'' and insert ''(6)''.

On page 16, line 12, strike ''(8)'' and insert ''(7)''.

On page 16, line 16, strike ''(9)'' and insert ''(8)''.

On page 16, line 20, strike ''(10)'' and insert ''(9)''.

On page 17, line 23, insert ''liquid'' before ''mercury''.

On page 21, line 15, insert ''intentionally'' before ''used''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, September 5, 2002, at 10:00 a.m., to conduct a hearing on ''The Importance of Financial Literacy Among College Students.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, September 5, 2002, at 2:30 p.m. on the nominations of Roger Nober to be a member of the Surface Transportation Board and David Laney to be a member of the Amtrak Reform Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in Open Executive Session during the session of the Senate on Thursday, September 5, 2002, at 10:00 a.m., to markup a substitute for H.R. 5063, the ''Armed Forces Tax Fairness Act of 2002''.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session, after first vote, during the session of the Senate on Thursday, September 5, 2002, in SD–430. The following items will be considered.

1. S. 2328, Safe Motherhood Act for Research and Treatment.

2. S. _____, to Reauthorize the National Science Foundation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, September 5, 2002, at 10 a.m., in SD226.

Agenda

I. Nominations

Priscilla Owen to be a U.S. Circuit Court Judge for the Fifth Circuit.

Reena Raggi to be a U.S. Circuit Court Judge for Second District.

Ronald H. Clark to be a U.S. District Court Judge for the Eastern District of Texas.

James Knoll Gardner to be a U.S. District Court Judge for the Eastern District of Pennsylvania.

Lawrence J. Block to be a Judge for U.S. Court of Federal Claims.

To be a U.S. Marshal: Denny Wade King for the Middle District of Tennessee.

II. Bills

S. 2480, Law Enforcement Officers Safety Act of 2002 [Leahy/Hatch/Feinstein/Thurmond/Cantwell/Grassley/Edwards/Kyl/DeWine/Sessions/McConnell/Brownback].

S. 2127, a bill for the relief of the Pottawatomi Nation in Canada for settlement of certain claims against the United States. [Inouye].

H.R. 809, Antitrust Technical Corrections Act of 2001 [Sensenbrenner/Conyers].

H.R. 3375, Embassy Employee Compensation Act [Blunt].

S. 2798, Employee Abuse Prevention Act of 2002 [Durbin/Leahy/Kennedy].

S. 2820, to increase the priority for employee wages and benefits in bankruptcy [Carnahan/Leahy/Kennedy].

H.R. 3838, to amend the charter of the Veterans of Foreign Wars to make additional members of the armed services eligible for membership in the organization [Bilirakis].

S. 1972, to amend the charter of the AMVETS organization [Rockefeller].

H.R. 3214, to amend the charter of the AMVETS organization [Chris Smith].

S. Res. 316, to designate the year beginning February 1, 2003, as the ''Year of the Blues'' [Lincoln/Cantwell/Feingold].

S. 2896, to enhance the operation of the AMBER Alert communications network [Hutchison/Feinstein/Leahy/Hatch/Biden/Durbin/Edwards].

S. 1615, Federal-Local Information Sharing Partnership Act of 2001 [Schumer/Leahy/Hatch/Biden/Durbin].

S. 1655, Captive Exotic Animal Protection Act of 2001 [Biden, Feinstein, Durbin, Kohl, Cantwell].

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, September 5, 2002 at 2:30 p.m. to hold a closed hearing on intelligence matters.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTRY, CONSERVATION AND RURAL REVITALIZATION

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Forestry, Conservation, and Rural Revitalization of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday September 5, 2002 in SR–328A at 9 a.m. The purpose of this hearing will be to discuss the decline of oak tree populations in southern States caused by prolonged drought and red oak borer insect infestation.

THE PRESIDING OFFICER. Without objection, it is so ordered.

HONORING THE VALLEY SPORTS AMERICAN LITTLE LEAGUE BASEBALL TEAM

The following resolution was submitted as follows:

S. RES. 320

Whereas on August 25, 2002, the Valley Sports American Little League baseball team from Louisville, Kentucky, won the Little League Baseball World Series;

Whereas, this is the first time a Kentucky team has won the Little League Baseball World Series in the 56-year history of the series;

Whereas, the Valley Sports team had an impressive and overall undefeated record of 24 wins and 0 losses, including 4 victories in the playoffs, and winning the championship game;

Whereas, the Valley Sports team players, Aaron Alvey, Justin Elkins, Ethan Henry, Alex Hornback, Wes Jenkins, Casey Jordan, Shane Logsdon, Blaine Madden, Zach Osborne, Jake Remines, Josh Robinson, and Wes Walden, showed tremendous dedication

and sportsmanship throughout the season toward the goal of wining the Little League baseball world championship;

Whereas, the Valley Sports team was managed by Troy Osborne, and coached by Keith Elkins and Dan Roach, who all demonstrated professionalism and respect for their players and the game of baseball;

Whereas, the Valley Sports team fans from Kentucky showed enthusiasm, support and courtesy for the game of baseball, and all the players and coaches; and

Whereas, in the 56th Little League Baseball World Series championship game the Valley Sports American baseball team faced the Sendai Higashi Japanese baseball team and came away victorious by a score of 1–0: Now, therefore, be it

Resolved, that the Senate honors the Valley Sports American Little Leagu9e baseball team from Louisville, Kentucky, for winning the 2002 Little League World Series Championship.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY FOR TRAVEL FROM APR. 1 TO JUNE 20, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Edward Barron:									
Italy	Euro		1,163.00		5,669.51				6,832.51
France	Euro		747.00						747.00
Total			1,910.00		5,669.51				7,579.51

TOM HARKIN,
Chairman, Committee on Agriculture, Nutrition and Forestry, July 25, 2002.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM APR. 1 TO JUNE 30, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Bill Nelson:									
Cyprus	Dollar		169.00						169.00
Uzbekistan	Dollar		666.00						666.00
Pakistan	Dollar		524.00						524.00
India	Dollar		1,650.00						1,650.00
Syria	Dollar		522.00						522.00
Turkey	Dollar		536.00						536.00
Switzerland	Dollar		284.00						284.00
Dan McLaughlin:									
Cyprus	Dollar		169.00						169.00
Uzbekistan	Dollar		666.00						666.00
Pakistan	Dollar		524.00						524.00
India	Dollar		1,650.00						1,650.00
Syria	Dollar		522.00						522.00
Turkey	Dollar		536.00						536.00
Switzerland	Dollar		284.00						284.00
Evelyn F. Farkas:									
Singapore	Dollar		381.03		20.00		20.00		421.03
Bernard Toon:									
Russia	Dollar		1,564.00						1,564.00
Germany	Dollar		338.00						338.00
Senator James M. Inhofe:									
Italy	Dollar		63.51						63.51
Israel	Dollar		279.59						279.59
Mark Powers:									
United States	Dollar				6,586.73				6,585.73
Germany	Dollar		68.16						68.16
Italy	Dollar		302.99						302.99
Cote D'Ivoire	Dollar		22.40						22.40
Oman	Dollar		146.47						146.47
Jordan	Dollar		158.00						158.00
Israel	Dollar		279.66						279.66
Senator Jack Reed:									
Singapore	Dollar		365.09						365.09
Elizabeth King:									
Singapore	Dollar		394.52					15.67	410.19
Senator Jeff Bingaman:									
United States	Dollar				3,082.80				3,082.80
Russia	Dollar		991.05						991.05
Total			14,056.47		9,689.53		35.67		23,781.67

CARL LEVIN,
Chairman, Committee on Armed Services, July 1, 2002.

AMENDMENT TO 3RD QUARTER 2001 CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2001

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator James M. Inhofe:									
Ghana	Dollar		215.00						215.00
Kenya	Dollar		252.00						252.00
Benin	Dollar		189.00						189.00
United States	Dollar				4,727.21				4,727.21
Mark Powers:									
Ghana	Dollar		215.00						215.00

AMENDMENT TO 3RD QUARTER 2001 CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2001—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Kenya	Dollar		252.00						252.00
Benin	Dollar		189.00						189.00
United States	Dollar				5,878.12				5,878.12
Total			1,312.00		10,605.33				11,917.33

CARL LEVIN,
Chairman, Committee on Armed Services, July 30, 2002.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS FOR TRAVEL FROM APR. 1 TO JUNE 20, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Phil Gramm:									
Turkey	Dollar		1,565.00						1,565.00
Denmark	Dollar		478.00						478.00
Senator Mike Crapo:									
Turkey	Dollar		1,565.00						1,565.00
Denmark	Dollar		478.00						478.00
Ruth Cymber:									
Turkey	Dollar		1,565.00						1,565.00
Denmark	Dollar		478.00						478.00
Larry Neal:									
Turkey	Dollar		1,565.00						1,565.00
Denmark	Dollar		478.00						478.00
Expenses for Delegation [1]									
Turkey	Dollar						2,814.92		2,814.92
Catherine Cruz Woktasik:									
Argentina	Dollar		1,135.00		998.47				2,133.47
Ethiopia	Dollar		950.00		5,439.45				6,389.45
Total			10,257.00		6,437.92		2,814.92		19,509.84

[1] Delegation expenses include direct payments and reimbursements to the Department of State under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384.

PAUL S. SARBANES,
Chairman, Committee on Banking, Housing, and Urban Affairs, July 30, 2002.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BUDGET FOR TRAVEL FROM MAY 24 TO MAY 29, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Pete V. Domenici:									
Russia	Dollar		1,376.00		2,368.30				3,744.30
Stephen E. Bell:									
Russia	Dollar		1,376.00		2,368.30				3,744.30
Total			2,752.00		4,736.60				7,488.60

KENT CONRAD,
Chairman, Committee on Budget, August 1, 2002.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION FOR TRAVEL FROM APR. 1 TO JUNE 30, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Michael W. Reynolds:									
France	Euro		831.47		2,436.43				3,267.90
Belguim	Euro		199.55						199.55
Total			1,031.02		2,436.43				3,467.45

FRITZ HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation, July 12, 2002.

AMENDMENT TO 1ST QUARTER 2002 CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(B), COMMITTEE ON ENERGY AND NATURAL RESOURCES FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Jeff Bingaman:									
Azerbaijan	Dollar		819.00						819.000
Turkey	Dollar		626.90						626.90
United States	Dollar				6,178.90				6,178.90
Bernard Toon:									
Azerbaijan	Dollar		833.50						833.50

AMENDMENT TO 1ST QUARTER 2002 CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(B), COMMITTEE ON ENERGY AND NATURAL RESOURCES FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2002—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Turkey	Dollar		641.50						641.50
United States	Dollar				6,289.50				6,289.50
Robert M Simon:									
Azerbaijan	Dollar		790.00						790.00
Turkey	Dollar		660.00						660.00
United States	Dollar				6,178.90				6,178.90
Shirley J Neff:									
Azerbaijan	Dollar		947.00						947.00
Turkey	Dollar		592.00						592.00
United States	Dollar				6,545.90				6,545.90
Jennifer R Michael:									
Azerbaijan	Dollar		839.00						839.00
Turkey	Dollar		588.00						588.00
United States	Dollar				6,545.90				6,545.90
Jonathan Y Black:									
Azerbaijan	Dollar		920.00						920.00
Turkey	Dollar		546.00						546.00
United States	Dollar				6,5545.90				6,545.90
Total			8,802.90		38,285.00				47,087.90

JEFF BINGAMAN,
Chairman, Committee on Energy and National Resources, July 30, 2002.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM APR. 1 TO JUNE 30, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Theodore Posner:.									
China	Renminbi		883.40		5,575,50				6,458.90
Everett Eissenstat:.									
China	Renminbi		1,241.00		5,505.00				6,746.00
Charles Freeman:.									
China	Renminbi		1,241.00		5,505.00				6,746.00
Total			3,365.40		16,585.50				19,950.90

MAX BAUCUS,
Chairman, Committee on Finance, June 25, 2002.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM APR. 1 TO JUNE 30, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Lincoln Chafee:									
Venezuela	Dollar		2.00						2.00
Senator Michael B. Enzi:									
Russia	Dollar		1,376.00						1,376.00
United States	Dollar				4,633.50				4,633.50
Senator Chuck Hagel:									
Singapore	Dollar		510.00						510.00
Senator Robert Torricelli:									
Saudi Arabia	Dollar		450.00						450.00
Pakistan	Dollar		674.00						674.00
United States	Dollar				7,146.34				7,146.34
Jonah Blank:									
Indonesia	Dollar		1,718.00						1,718.00
United States	Dollar				8,496.98				8,496.98
John Bradshaw:									
Saudi Arabia	Dollar		450.00						450.00
Pakistan	Dollar		674.00						674.00
United States	Dollar				7,146.34				7,146.34
Jose Cardenas:									
Colombia	Dollar		884.00						884.00
United States	Dollar				1,890.50				1,890.50
Heather Flynn:									
Guinea	Dollar		800.00						800.00
Liberia	Dollar		745.00						745.00
Sierra Leone	Dollar		324.00						324.00
United States	Dollar				7,554.54				7,554.54
Mali	Dollar		580.00						580.00
Mauritania	Dollar		780.00						780.00
United States	Dollar				8,906.00				8,906.00
Brian G. Fox:									
Colombia	Dollar		884.00						884.00
United States	Dollar				2,395.00				2,395.00
Jeff Gibbs:									
Ethiopia	Dollar		600.00						600.00
Kenya	Dollar		400.00						400.00
Somaliland	Dollar		300.00						300.00
Djibouti	Dollar		300.00						300.00
Eritrea	Dollar		650.00						650.00
United States	Dollar				6,978.45				6,978.45
Philip M. Griffin:									
Ethiopia	Dollar		500.00						500.00
Kenya	Dollar		500.00						500.00
Somaliland	Dollar		300.00						300.00
Djibouti	Dollar		300.00						300.00
Eritrea	Dollar		650.00						650.00
United States	Dollar				6,978.45				6,978.45

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM APR. 1 TO JUNE 30, 2002—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Michael H. Haltzel:									
Germany	Dollar		1,053.00						1,053.00
United States	Dollar				4,927.25				4,927.25
Robert S. Hymans:									
Indonesia	Dollar		640.00						640.00
East Timor	Dollar		550.00						550.00
Japan	Dollar		660.00						660.00
United States	Dollar				7,965.37				7,965.37
Frank Jannuzi:									
Philippines	Dollar		2,779.00						2,779.00
United States	Dollar				4,747.00				4,747.00
Thailand	Dollar		1,160.00						1,160.00
Burma	Dollar		173.00						173.00
United States	Dollar				3,781.00				3,781.00
David A. Merkel:									
Romania	Dollar		260.00						260.00
Russia	Dollar		1,032.00						1,032.00
Armenia	Dollar		0.00						0.00
Georgia	Dollar		486.00						486.00
Azerbaijan	Dollar		667.00						667.00
United States	Dollar				7,359.04				7,359.04
Romania	Dollar		490.00						490.00
Bulgaria	Dollar		260.00						260.00
Czech Republic	Dollar		606.00						606.00
United Kingdom	Dollar		344.00						344.00
United States	Dollar				4,927.25				4,927.25
John Seggerman:									
Venezuela	Dollar		174.00						174.00
Jamie Metzl:									
Belgium	Dollar		771.00						771.00
United States	Dollar				4,512.79				4,512.79
Katherine McGuire:									
Russia	Dollar		1,376.00						1,376.00
United States	Dollar				4,633.50				4,633.50
Patricia McNerney:									
Romania	Dollar		490.00						490.00
Bulgaria	Dollar		260.00						260.00
Czech Republic	Dollar		606.00						606.00
United Kingdom	Dollar		344.00						344.00
United States	Dollar				6,555.90				6,555.90
Kenneth A. Myers III:									
Russia	Dollar		1,908.00						1,908.00
Germany	Dollar		338.00						338.00
Norway	Dollar		295.00						295.00
United States	Dollar				5,564.25				5,564.25
Bob Nickel:									
Singapore	Dollar		510.00						510.00
Andrew Parasiliti:									
Singapore	Dollar		510.00						510.00
Maurice A. Perkins:									
Brazil	Dollar		1,350.00						1,350.00
United States	Dollar				5,565.50				5,565.50
Peter D. Zimmerman:									
United Kingdom	Dollar		1,519.14						1,519.14
United States	Dollar				5,136.09				5,136.09
Total			36,962.14		127,801.04				164,763.18

JOE BIDEN,
Chairman, Committee on Foreign Relations, July 26, 2002.

AMENDMENT TO 1ST QUARTER 2002 CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b); COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Lincoln D. Chafee:									
Cuba	Dollar		346.00						346.00
Peru	Dollar		370.00						370.00
Chile	Dollar		490.00						490.00
Argentina	Dollar		782.00						782.00
Uruguay	Dollar		206.00						206.00
Brazil	Dollar		215.00						215.00
Deborah Brayton:									
Cuba	Dollar		396.00						396.00
Peru	Dollar		420.00						420.00
Chile	Dollar		592.00						592.00
Argentina	Dollar		782.00						782.00
Uruguay	Dollar		256.00						256.00
Brazil	Dollar		235.00						235.00
David Andrew Olson:									
Kenya	Dollar		200.00						200.00
Tanzania	Dollar		120.00						120.00
Kenya	Dollar		360.00						360.00
Uganda	Dollar		580.00						580.00
United States	Dollar				8,175.00				8.175.00
Nancy H. Stetson:									
United Kingdom	Dollar		344.00						344.00
Jordan	Dollar		114.00						114.00
Egypt	Dollar		289.00						289.00
Israel	Dollar		50.00						50.00
Israel	Dollar		686.00						686.00
United States	Dollar				7,271.00				7,271.00
Senator John F. Kerry:									
United Kingdom	Dollar		344.00						344.00
Jordan	Dollar		175.00						175.00
Egypt	Dollar		310.00						310.00
Israel	Dollar		50.00						50.00
Israel	Dollar		750.00						750.00

AMENDMENT TO 1ST QUARTER 2002 CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b); COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2002—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	Dollar				8,983.00				8,983.00
Mark T. Esper:									
Belgium	Dollar		257.00						257.00
Austria	Dollar		392.00						392.00
Slovakia	Dollar		299.00						299.00
Slovenia	Dollar		215.00						215.00
Lithuania	Dollar		234.00						234.00
Estonia	Dollar		186.00						186.00
Latvia	Dollar		514.00						514.00
United States	Dollar				3,530.47				3,530.47
Kyle J. Sullivan:									
Saudi Arabia	Dollar		180.00						180.00
Jordan	Dollar		210.00						210.00
Egypt	Dollar		263.00						263.00
Israel	Dollar		50.00						50.00
Israel	Dollar		865.00						865.00
United States	Dollar				6,394.00				6,394.00
David A. Merkel:									
Belgium	Dollar		257.00						257.00
Austria	Dollar		292.00						292.00
Slovakia	Dollar		299.00						299.00
Slovenia	Dollar		165.00						165.00
Lithuania	Dollar		184.00						184.00
Estonia	Dollar		136.00						136.00
Latvia	Dollar		414.00						414.00
United States	Dollar				7,359.04				7,359.04
Patricia McNerney:									
Belgium	Dollar		257.00						257.00
Poland	Dollar		299.00						299.00
Austria	Dollar		392.00						392.00
Slovenia	Dollar		215.00						215.00
Lithuania	Dollar		234.00						234.00
Estonia	Dollar		186.00						186.00
Latvia	Dollar		514.00						514.00
United States	Dollar				6,334.17				6,334.17
Lester Munson:									
Egypt	Dollar		480.00						480.00
United Kingdom	Dollar		180.00						180.00
United States	Dollar				5,834.61				5,834.61
Danielle Pletka:									
Egypt	Dollar		480.00						480.00
United Kingdon	Dollar		180.00						180.00
United States	Dollar				5,834.61				5,834.61
Robert S. Hyams:									
Japan	Dollar		1,650.00						1,650.00
United Stats	Dollar				6,298.57				6,298.57
Senator Christopher J. Dodd:									
Ireland	Dollar		936.00						936.00
United States	Dollar				5,143.05				5,143.05
Heather Flynn:									
Switzerland	Dollar		894.00						894.00
United States	Dollar				5,520.68				5,520.86
Senator Russell Feingold:									
Kenya	Dollar		375.00						375.00
Tanzania	Dollar		129.00						129.00
Mozambique	Dollar		149.00						149.00
United States	Dollar				8,516.42				8,515.42
Michelle Gavin:									
Kenya	Dollar		369.00						359.00
Tanzania	Dollar		127.00						127.00
Mozambique	Dollar		144.00						144.00
United States	Dollar				8,348.42				8,348.42
Robert Hyams:									
Switzerland	Dollar		1,226.45						1,226.45
United States	Dollar				5,014.91				5,014.91
Michael Haltzel:									
Russia	Dollar		1,150.00						1,150.00
United States	Dollar				4,734.00				4,734.00
Philip M. Griffin:									
Kenya	Dollar		1,000.00						1,000.00
Sudan	Dollar		250.00						250.00
Tanzania	Dollar		450.00						450.00
United States	Dollar				8,144.03				8,144.03
Susan Williams:									
Kenya	Dollar		1,000.00						1,000.00
Sudan	Dollar		350.00						350.00
Tanzania	Dollar		450.00						450.00
United States	Dollar				8,144.03				8,144.03
Kelly Siekman:									
Romania	Dollar		120.00						120.00
Russia	Dollar		417.00						417.00
United States	Dollar				5,634.24				5,634.24
Michael Haltzel:									
Romania	Dollar		265.00						265.00
Cyprus	Dollar		507.00						507.00
United States	Dollar				7,117.39				7,117.39
Senator Joseph R. Biden:									
United Kingdom	Dollar		262.00						262.00
Pakistan	Dollar		262.00						262.00
Afghanistan	Dollar		712.00						712.00
Bahrain	Dollar		196.00						196.00
United States	Dollar				4,909.70				4,909.70
Jonah Blank:									
United Kingdom	Dollar		262.00						262.00
Pakistan	Dollar		262.00						262.00
Afghanistan	Dollar		712.00						712.00
Bahrain	Dollar		196.00						196.00
United States	Dollar				3,710.70				3,710.70
Puneet Talwar:									
United Kingdom	Dollar		262.00						262.00
Pakistan	Dollar		262.00						262.00
Afghanustan	Dollar		712.00						712.00
Bahrain	Dollar		196.00						196.00
United States	Dollar				3,710.70				3,710.70
Norman Kurz:									
United Kingdom	Dollar		262.00						262,00

AMENDMENT TO 1ST QUARTER 2002 CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b); COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2002—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Pakistan	Dollar		262.00						262.00
Afghanistan	Dollar		712.00						712.00
Bahrain	Dollar		196.00						196.00
United States	Dollar				3,710.70				3,710.70
Total			35,977.45		148,373.44				184,350.89

JOSEPH R. BIDEN, JR.,
Chairman, Committee on Foreign Relations, May 2, 2002.

AMENDMENT TO 4TH QUARTER 2001 CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2001

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Kirsten Madison:									
Nicaragua	Dollar		888.00						888.00
Frank Jannuzi:									
Korea	Dollar		1,072.00						1,072.00
United States	Dollar				3,275.70				3,275.70
Total			1,960.00		3,275.70				5,235.70

JOSEPH R. BIDEN, JR.,
Chairman, Committee on Foreign Relations, May 2, 2002.

AMENDMENT TO 3RD QUARTER 2001 CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2001

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Christopher Dodd:									
Haiti	Dollar		125.00						125.00
Senator Chuck Hagel:									
Ukraine	Dollar		624.00						624.00
Georgia	Dollar		536.00						536.00
Greece	Dollar		70.00						70.00
United States	Dollar				5,143.14				5,143.14
Ian Brzezinski:									
Yugoslavia	Dollar		582.00						582.00
Bulgaria	Dollar		703.00						703.00
United States	Dollar				5,339.77				5,339.77
Michael Coulter:									
Ukraine	Dollar		624.00						624.00
Georgia	Dollar		536.00						536.00
Greece	Dollar		70.00						70.00
United States	Dollar				5,143.14				5,143.14
James Doran:									
South Korea	Dollar		518.00						518.00
Japan	Dollar		950.00						950.00
United States	Dollar				7,007.78				7,007.78
David Dorman:									
Ukraine	Dollar		624.00						624.00
Georgia	Dollar		536.00						536.00
Greece	Dollar		70.00						70.00
United States	Dollar				5,143.14				5,143.14
Robert Epplin:									
Greece	Dollar		788.00						788.00
Cyprus	Dollar		314.00						314.00
Turkey	Dollar		536.00						536.00
United States	Dollar				4,317.26				4,317.26
Debbie Fiddelke:									
Germany	Dollar		650.00						650.00
United States	Dollar				5,061.90				5061.90
Garrett Grigsby:									
Zimbabwe	Dollar		1,300.00						1,300.00
South Africa	Dollar		1,300.00						1,300.00
United States	Dollar				7,822.98				7,822.98
Michael Haltzel:									
United Kingdom	Dollar		2,428.00		72.50				2,500.50
United States	Dollar				6,637.00				6,637.00
Mark Lagon:									
Italy	Dollar		1,074.00						1,074.00
Switzerland	Dollar		800.71						800.71
United States	Dollar				6,114.68				6,114.68
Janice O'Connell:									
Haiti	Dollar		76.00						76.00
Kelly Siekman:									
Yugoslavia	Dollar		540.00						540.00
United States	Dollar				5,339.77				5,339.77
Puneet Talwar:									
Lebanon	Dollar		692.00						692.00
Egypt	Dollar		669.00						669.00
Jordan	Dollar		235.00						235.00
Israel	Dollar		1,637.00						1,637.00
United Kingdom	Dollar		1,002.00						1,002.00
United States	Dollar				6,799.82				6,799.82
Michael Westphal:									
South Korea	Dollar		518.00						518.00
Japan	Dollar		950.00						950.00
United States	Dollar				7,007.78				7,007.78
Zimbabwe	Dollar		1,300.00						1,300.00

AMENDMENT TO 3RD QUARTER 2001 CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2001—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
South Africa	Dollar		1,300.00						1,300.00
United States	Dollar				7,822.98				7,822.98
Susan Williams:									
Zimbabwe	Dollar		1,300.00						1,300.00
South Africa	Dollar		1,300.00						1.300.00
United States	Dollar				7,822.98				7,822.98
Total			27,277.71		92,596.62				119,874.33

JOSEPH R. BIDEN, JR.,
Chairman, Committee on Foreign Relations, Oct. 9, 2001.

AMENDMENT TO 2ND QUARTER 2001 CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM APR. 1 TO JUNE 30, 2001

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Christopher Dodd:									
Ireland	Dollar		933.00						933.00
United States	Dollar				2,415.73				2,415.73
Ian Brzezinski:									
Slovakia	Dollar		537.85						537.85
United States	Dollar				5,374.33				5,374.33
Robert Epplin:									
Israel	Dollar		724.00						724.00
United States	Dollar				5,265.60				5,265.00
Edward Levine:									
Russia	Dollar		1,522.65						1,522.65
United States	Dollar				4,433.60				4,433.60
Puneet Talwar:									
Saudi Arabia	Dollar		468.00						468.00
Syria	Dollar		261.00						261.00
Turkey	Dollar		451.00						451.00
United Kindom	Dollar		702.00						702.00
United States	Dollar				7,152.66				7,152.66
Total			5,599.50		24,641.92				30,241.42

JOSEPH R. BIDEN, JR.,
Chairman, Committee on Foreign Relations, Oct. 9, 2001.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON GOVERNMENTAL AFFAIRS FOR TRAVEL FROM APR. 1 TO JUNE 30, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Voinovich:									
United States	Dollar				3,506.41				3,506.41
Macedonia	Dollar		108.00						108.00
Slovenia	Dollar		150.37						150.37
Belgium	Dollar		156.00						156.00
Joni Crosley:									
United States	Dollar				3,506.41				3,506.41
Macedonia	Dollar		181.00						181.00
Slovenia	Dollar		225.00						225.00
Belgium	Dollar		190.00						190.00
Senator Thompson:									
Singapore	Dollar		424.03						424.03
Howard Liebengood:									
Singapore	Dollar		425.77						425.77
Total			1,860.17		7,012.82				8,872.99

JOSEPH LIEBERMAN,
Chairman, Committee on Governmental Affairs, July 1, 2002.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON JUDICIARY FOR TRAVEL FROM MAY 25 TO JUNE 2, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Sharon Waxman:									
Ireland	Dollar		1,967.00		1,304.21				3,271.21
Total			1,967.00		1,304.21				3,271.21

PATRICK LEAHY,
Chairman, Committee on Judiciary, July 29, 2002.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM APR. 1 TO JUNE 30, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Sen. Richard Lugar			1,887.00						1,887.00
	Dollar				3,264.16				3,264.16
Kenneth Myers, Jr.			2,197.00						2,197.00
Martin Morris			1,970.00						1,970.00
	Dollar				3,264.16				3,264.16
Sen. Bob Graham			1,740.00						1,740.00
Robert Filippone			1,790.00						1,790.00
Sen. Barbara Mikulski			1,651.00						1,651.00
Sen. Richard Shelby			1,888.00						1,888.00
	Dollar				5,437.00				5,437.00
William Duhnke			1,351.00						1,351.00
	Dollar				5,402.00				5,402.00
Total			14,474.00		17,367.32				31,841.32

BOB GRAHAM,
Chairman, Committee on Intelligence, July 29, 2002.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE FOR TRAVEL FROM MAY 3 TO MAY 6, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Stephen Thompson:									
United States	Dollar		1,086.00						1,086.00
Total			1,086.00						1,086.00

JIM SAXTON,
Chairman, Joint Economic Committee, May 31, 2002.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM APR. 1 TO JUNE 30, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Representative Alcee L. Hastings:									
United States	Dollar				5,965.55				5,965.55
United Kingdom	Dollar		294.00						294.00
Denmark	Dollar		864.00						864.00
Janice L. Helwig:									
United States	Dollar				4,500.00				4,500.00
Austria	Dollar		17,775.00						17,775.00
Uzbekistan	Dollar		939.50		2,199.63				3,139.13
Tajikistan	Dollar		474.00		80.00				554.00
Ronald J. McNamara:									
United States	Dollar				4,169.52				4,169.52
Czech Republic	Dollar		749.50						749.50
Erika Schlager:									
United States	Dollar				4,811.60				4,811.60
Poland	Dollar		1,111.00						1,111.00
Total			22,207.00		21,726.30				43,933.30

BEN NIGHTHORSE CAMPBELL,
Chairman, the Commission on Security and Cooperation in Europe, July 31, 2002.

AMENDMENT TO 3RD QUARTER 2001 CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2001

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Joseph R. Biden:									
Taiwan	Dollar		273.00						273.00
China	Dollar		417.00						417.00
Korea	Dollar		109.00						109.00
Senator Paul Sarbanes:									
Taiwan	Dollar		273.00						273.00
China	Dollar		417.00						417.00
Korea	Dollar		109.00						109.00
Margaret Aitken:									
Taiwan	Dollar		273.00						273.00
China	Dollar		417.00						417.00
Korea	Dollar		109.00						109.00
Molly Buford:									
Taiwan	Dollar		273.00						273.00
China	Dollar		417.00						417.00
Korea	Dollar		109.00						109.00
Mark T. Esper:									
Taiwan	Dollar		273.00						273.00
China	Dollar		417.00						417.00
Korea	Dollar		109.00						109.00
Edwin K. Hall:									
Taiwan	Dollar		273.00						273.00
China	Dollar		417.00						417.00

AMENDMENT TO 3RD QUARTER 2001 CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2001—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Korea	Dollar		109.00						109.00
Frank Jannuzi:									
Taiwan	Dollar		273.00						273.00
China	Dollar		417.00						417.00
Korea	Dollar		109.00						109.00
Peter Marudas:									
Taiwan	Dollar		273.00						273.00
China	Dollar		417.00						417.00
Korea	Dollar		109.00						109.00
Delegation expenses [1]							3,565.22		3,565.22
Total			6,392.00				3,565.22		9,957.22

[1] Delegation expenses include direct payments and reimbursements to the Department of State under authority act of the Mutual Security Act of 1954, as amended by Sec. 22 P.L. 95–384.

JOE BIDEN,
Chairman, Committee on Foreign Relations, Oct. 12, 2001.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), CONGRESSIONAL DELEGATION FOR TRAVEL FROM MAR. 22 TO APR. 8, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Richard Shelby:									
Cyprus	Pound		169.00						169.00
Uzbekistan	Dollar		666.00						666.00
Pakistan	Dollar		524.00						524.00
India	Rupee		1,650.00		391.00		843.00		2,884.00
Syria	Dollar		522.00						522.00
Turkey	Lira		536.00						536.00
Switzerland	Franc		284.00						284.00
Anne Caldwell:									
Cyprus	Pound		169.00						169.00
Uzbekistan	Dollar		666.00						666.00
Pakistan	Dollar		524.00						524.00
India	Rupee		1,650.00						1,650.00
Syria	Dollar		522.00						522.00
Turkey	Lira		536.00						536.00
Switzerland	Franc		284.00						284.00
Christopher Ford:									
Cyprus	Pound		169.00						169.00
Uzbekistan	Dollar		666.00						666.00
Pakistan	Dollar		524.00						524.00
India	Rupee		1,217.00						1,217.00
Syria	Dollar		522.00						522.00
Turkey	Lira		536.00						536.00
Total			21,322.00		391.00		843.00		22,556.00

TOM DASCHLE,
Majority Leader, July 8, 2002
TRENT LOTT,
Republican Leader, July 8, 2002.

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Susan Barnidge, a fellow with Senator CARNAHAN's office, be granted privileges of the floor for today and for the duration of the debate on H.R. 5005, the homeland security bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that John Wanat and Thomas Holloman, congressional fellows in the Congressional Affairs Committee, and Michelle McMurry and Yul Kwon, fellows in my personal office, be granted floor privileges during the debate on H.R. 5005.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Senator is correct.

UNANIMOUS CONSENT AGREEMENT—H.R. 5005

Mr. REID. Mr. President, I ask unanimous consent that on Monday, September 9, following the vote on the judicial nomination and the Senate resuming legislative session, the Senate then resume consideration of H.R. 5005, the homeland defense legislation; that there be general debate until 2 p.m., at which time Senator THOMPSON will be recognized to offer an amendment to strike titles II and III of the Lieberman substitute amendment; that the next first-degree amendment, upon disposition of the Thompson amendment, be an amendment to be offered by Senator BYRD regarding the orderly transition of agencies.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H.R. 5093

Mr. REID. Mr. President, I ask unanimous consent that on Tuesday, September 10, when the Senate resumes consideration of H.R. 5093, the Interior Appropriations bill, there be 60 minutes remaining for debate with respect to the Daschle amendment No. 4481, with the time equally divided and controlled between the two leaders or their designees; that upon the use or yielding back of time, the Senate vote in relation to the amendment; that if a Budget Act point of order is raised and a motion to waive is successful, or if a tabling motion is made and is unsuccessful, without further intervening action or debate, the Senate then vote immediately on the amendment; that upon disposition of the amendment, the motion to reconsider be laid upon the table; that upon entering of this agreement, the cloture motion with respect to the Daschle amendment be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 107–16

Mr. REID. As in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on September 5, 2002, by the President of the United States:

Treaty with Liechtenstein on Mutual Legal Assistance in Criminal Matters (Treaty Document No. 107–16).

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Principality of Liechtenstein on Mutual Legal Assistance in Criminal Matters, signed at Vaduz on July 8, 2002. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of crimes, including terrorism, drug trafficking, and fraud and other white-collar offenses. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: locating or identifying persons or items; serving documents; taking the testimony or statements of persons; transferring persons in custody for testimony or other purposes; providing documents, records and items; executing requests for searches and seizures; assisting in proceedings related to immobilization and forfeiture of assets and restitution; initiating criminal proceedings in the Requested State; and any other form of assistance consistent with the purposes of this Treaty and not prohibited by the laws of the State from whom the assistance is requested.

I recommend that the Senate give early and favorable consideration to the Treaty, and give its advice and consent to ratification.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 5, 2002*.

EXECUTIVE SESSION

NOMINATION OF PAMELA F. OLSON, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY

Mr. REID. Mr. President, I ask that the Senate proceed to executive session to consider the following nomination:

Calendar No. 1000, Pamela Olson, of Virginia, to be an Assistant Secretary of the Treasury; that the nomination be confirmed, the motion to reconsider be laid upon the table; that the President be notified of the Senate's action, and any statements thereon be printed at the appropriate place in the RECORD as if given, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROTOCOL AMENDING THE 1949 CONVENTION INTER-AMERICAN TROPICAL TUNA COMMISSION—TREATY DOCUMENT NO. 107–2

Mr. REID. Mr. President, I ask unanimous consent that the Senate consider Executive Calendar No. 6, Protocol Amending the 1949 Convention of Inter-American Tropical Tuna Commission; that the protocol be advanced through its parliamentary stages, up to and including the presentation of the resolution of ratification; and that the Senate now vote on the resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the resolution of ratification. Senators in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division vote, two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification reads as follows:

TREATY 107–2 PROTOCOL AMENDING 1949 CONVENTION OF INTER-AMERICAN TROPICAL TUNA COMMISSION

Resolved (two-thirds of the Senators present concurring therein). That the Senate advise and consent to the ratification of the Protocol to Amend the 1949 Convention on the establishment of an Inter-American Tropical Tuna Commission, done at Guayaquil, June 11, 1999, and signed by the United States, subject to ratification, in Guayaquil, Ecuador, on the same date (Treaty Doc. 107–2).

Mr. REID. Mr. President, I ask unanimous consent that any statements relating to this protocol be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOUTH PACIFIC ENVIRONMENT PROGRAMME AGREEMENT—TREATY DOCUMENT NO. 105–32

Mr. REID. Mr. President, I ask unanimous consent that the Senate consider Executive Calendar No. 7, the South Pacific Environment Programme Agreement; that the agreement be advanced through its parliamentary stages, up to and including the presentation of the resolution of ratification; and that the Senate now vote on the resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the resolution of ratification.

Senators in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division vote, two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification reads as follows:

TREATY DOC. 105–32—SOUTH PACIFIC ENVIRONMENT PROGRAMME AGREEMENT

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Advice and Consent to Ratification of the Agreement Establishing the South Pacific Regional Environment Programme, subject to a Declaration.

The Senate advises and consents to the ratification of the Agreement Establishing the South Pacific Regional Environment Programme, done at Apia on June 16, 1993 (Treaty Doc. 105–32), subject to the declaration in Section 2.

Section 2. Declaration.

The advice and consent of the Senate is subject to the declaration that the ''no reservations'' provision in Article 10 of the Agreement has the effect of inhibiting the Senate in its exercise of its constitutional duty to give advice and consent to ratification of a treaty, and that the Senate's approval of the Agreement should not be construed as a precedent for acquiescence to future treaties containing such provisions.

Mr. REID. Mr. President, I ask unanimous consent that any statements relating to the agreement be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

1990 PROTOCOL TO THE 1983 MARITIME ENVIRONMENT OF THE WIDER CARIBBEAN REGION CONVENTION—TREATY DOCUMENT NO. 103–5

Mr. REID. Mr. President, I ask unanimous consent that the Senate consider Executive Calendar No. 8, the 1990 Protocol to the 1983 Maritime and Environment of the Wider Caribbean Region Convention; that the convention be advanced through its parliamentary stages, up to and including the presentation of the resolution of ratification; that the reservations, understandings, and declarations be agreed to; and that the Senate now vote on the resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the resolution of ratification.

Senators in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division vote, two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification reads as follows:

1990 PROTOCOL TO THE 1983 MARITIME ENVIRONMENT OF THE WIDER CARIBBEAN REGION CONVENTION—TREATY DOC. 103–5

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Advice and Consent to Ratification of the Protocol Concerning Specially Protected Areas and Wildlife to the Convention for the Protection and Development of

the Marine Environment of the Wider Caribbean Region, subject to Reservations, an Understanding, and a Declaration.

The Senate advises and consents to the ratification of the Protocol Concerning Specially Protected Areas and Wildlife to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, including Annexes, done at Kingston on January 18, 1990 (Treaty Doc. 103–5), subject to the reservations in section 2, the understanding in Section 3, and the declaration in Section 4.

Section 2. Reservations.

The advice and consent of the Senate under section 1 is subject to the following reservations, which shall be included in the instrument of ratification.

(1) The United States of America does not consider itself bound by Article 11(1) of the Protocol to the extent that United States law permits the limited taking of flora and fauna listed in Annexes I and II—

(A) which is incidental, or

(B) for the purpose of public display, scientific research, photography for educational or commercial purposes, or rescue and rehabilitation.

(2) The United States has long supported environmental impact assessment procedures, and has actively sought to promote the adoption of such procedures throughout the world. U.S. law and policy require environmental impact assessments for major Federal actions significantly affecting the quality of the human environment. Accordingly, although the United States expects that it will, for the most part, be in compliance with Article 13, the United States does not accept an obligation under Article 13 of the Protocol to the extent that the obligations contained therein differ from the obligations of Article 12 of the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region.

(3) The United States does not consider the Protocol to apply to six species of fauna and flora that do not require the protection provided by the Protocol in U.S. territory. These species are the Alabama, Florida and Georgia populations of least term (Sterna antillarum), the Audubon's shearwater (Puffinus lherminieri), the Mississippi, Louisiana and Texas population of the wood stork (Mycteria americana) and the Florida and Alabama populations of the brown pelican (Pelicanus occidentalis), which are listed on Annex II, as well as the fulvous whistling duck (Dendrocygna bicolor), and the populations of widgeon or ditch grass (Rupia maritima) located in the continental United States, which are listed on Annex III.

Section 3. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

The United States understands that the Protocol does not apply to non-native species, defined as species found outside of their natural geographic distribution, as a result of deliberate or incidental human intervention. Therefore, in the United States, certain exotic species, such as the muscovy duck (Carina moschata) and the common iguana (Iguana iguana), are not covered by the obligations of the Protocol.

Section 4. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

Existing federal legislation provides sufficient legal authority to implement United States obligations under the Protocol. Accordingly, no new legislation is necessary in order for the United States to implement the Protocol.

Mr. REID. Mr. President, I ask unanimous consent that any statements relating to this protocol be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

AUTHORIZING TESTIMONY AND REPRESENTATION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 323, submitted earlier today by the two leaders.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

To authorize testimony and representation in Senator MITCH MCCONNELL, et al, v. Federal Election Commission, et al., and consolidated cases.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, the U.S. District Court in the District of Columbia has consolidated for adjudication a number of challenges pending before it to the constitutionality of the Bipartisan Campaign Reform Act of 2002, which Congress enacted into law this spring.

These challenges include the lead case, which was filed by our colleague, Senator MCCONNELL. Four of our other colleagues who played major roles in the passage of this landmark law, Senators MCCAIN, FEINGOLD, SNOWE, and JEFFORDS, have intervened to join in defending the act. Recognizing the significant constitutional issues presented by the passage of this landmark legislation, the Senate acted to ensure that Senators on both sides of the constitutional questions would be able to present their views in court.

Since these lawsuits were filed shortly after the law was signed, there have been comprehensive pretrial proceedings under the supervision of the three-judge court that is handling this case. The court is aiming to decide this case as soon as possible after the law takes effect after the mid-term elections in November, and in time for the Supreme Court to hear the inevitable appeal in its forthcoming term.

As part of the proceedings in the discovery phase of the case, the Members who are participating on either side of the controversy have each been asked to give deposition testimony. Accordingly, at the Members' joint request, the enclosed resolution would authorize them to provide testimony in these cases, except, in keeping with Senate practice, when a privilege should be asserted under the speech or debate clause or when their presence is required on the Senate floor.

Finally, in order to ensure that the Senate's interests are protected in connection with the discovery process in this matter, the resolution authorizes the Senate Legal Counsel to appear in this litigation as an amicus curiae in the name of the Senate to assist in the presentation of views, to the parties, and, if necessary, the court, of the applicability of the principles of legislative privilege to discovery issues arising in this litigation.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to; that the motion to reconsider be laid upon the table; and that a statement by the majority leader be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 323) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES 323

Whereas, in the case of Senator Mitch McConnell, et al. v. Federal Election Commission, et al., No. 02–CV–582, and consolidated cases, pending in the United States District Court for the District of Columbia, notices for the taking of depositions have been served on Senator Mitch McConnell, who is a plaintiff, and Senators Olympia Snowe, James Jeffords, John McCain, and Russell Feingold, who are intervenor-defendants;

Whereas, pursuant to sections 703(c) and 706(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(c) and 288e(a), the Senate may direct its counsel to appear as amicus curiae in the name of the Senate in any legal proceeding in which the powers and responsibilities of Congress under the Constitution are placed in issue;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That, in the case of Senator Mitch McConnell, et al. v. Federal Election Commission, et al., and consolidated cases, Senators Mitch McConnell, Olympia Snowe, James Jeffords, John McCain, and Russell Feingold, and any other Senator who agrees to participate in this litigation, are authorized to testify, except concerning matters for which a privilege should be asserted and when their attendance at the Senate is necessary for the performance of their legislative duties.

SEC. 2. That the Senate Legal Counsel is authorized to appear as amicus curiae in the name of the Senate in the case of Senator Mitch McConnell, et al. v. Federal Election Commission, et al., and consolidated cases, to represent the interests of the Senate in connection with discovery sought from Senators in these cases.

ORDER FOR FOREIGN RELATIONS COMMITTEE TO REPORT

Mr. REID. I ask unanimous consent that the Foreign Relations Committee be authorized to report an executive treaty on Friday, September 6, 2002, from 10 a.m. to 11 a.m., notwithstanding the adjournment of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOHN F. KENNEDY CENTER PLAZA AUTHORIZATION ACT OF 2002

Mr. REID. I ask unanimous consent that the Senate proceed to the consideration of H.R. 5012, just received from the House and which is now at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5012) to amend the John F. Kennedy Center Act to authorize the Secretary of Transportation to carry out a project for construction of a plaza adjacent to the John F. Kennedy Center for the Performing Arts, and for other purposes.

There being no objection, the Senator proceeded to consider the bill.

Mr. REID. I ask unanimous consent that the bill be read three times, passed, the motion to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5012) was read the third time and passed.

THOMAS E. BURNETT, JR. POST OFFICE BUILDING

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5207, just received from the House and which is now at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5207) to designate the facility of the United States Postal Service located at 6101 West Old Shakopee Road in Bloomington, Minnesota, as the ''Thomas E. Burnett, Jr. Post Office Building''.

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER (Mr. REID). The Senator from Minnesota.

Mr. DAYTON. Mr. President, I join with my colleague, the senior Senator from Minnesota, Mr. WELLSTONE, who has introduced this legislation to honor Thomas E. Burnett, Jr., a true hero who gave his life on September 11 on the flight that was returning to Washington to cause enormous destruction to either this building perhaps or the White House. No one will ever know for sure. What we do know is the plane was prevented from its intended destructive course by the heroism of Mr. Burnett and others who were on that flight. We know that because on three or four occasions he called his wife, Deena. He spoke with her on a cell phone and communicated his intention and the intention of other passengers to intervene and wrest control of the plane from the hijackers who had commandeered that plane.

It was an act of enormous courage. It saved hundreds, perhaps thousands of lives, most likely in our Nation's Capitol. Tragically, it cost Mr. Burnett and the other passengers on that flight their lives. All of us in this body owe a debt of unspeakable gratitude to those incredibly courageous men and women.

I had occasion to visit Mr. and Mrs. Thomas Burnett, Sr., the parents of Mr. Burnett, in Minnesota to express our gratitude and share briefly the enormous grief they bear, as well as the grief of Mr. Burnett's wife and three children, which they will carry for the rest of their lives.

In a few minutes, we will pass this act to name the post office in Mr. Burnett's honor. Again, I thank Senator WELLSTONE, my senior colleague, for his thoughtful initiative in this regard, and I thank the Members of the Senate who I anticipate will vote in support of this measure. It is such a small measure of our eternal gratitude to this brave man. May he rest forever in peace and in the annals of the great heroes of this country.

I yield the floor.

The bill (H.R. 5207) was read the third time and passed.

Mr. DAYTON. Mr. President, I move to reconsider the vote, and to lay that motion on the table.

The motion to lay on the table was agreed to.

(Mr. DAYTON assumed the Chair.)

JOSEPH CURSEEN, JR. AND THOMAS MORRIS, JR. PROCESSING AND DISTRIBUTION CENTER

Mr. REID. I ask unanimous consent that the Senate proceed to H.R. 3287, recently received from the House, and now at our desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3287) to redesignate the facility of the United States Postal Service located at 900 Brentwood Road, NE, in Washington, DC, as the ''Joseph Curseen, Jr. and Thomas Morris, Jr. Processing and Distribution Center.''

There being no objection, the Senate proceeded to the immediate consideration of the bill.

Mr. REID. These two individuals were killed by anthrax. They worked at the post office on Brentwood Road, northeast Washington. Their fellow employees felt it was appropriate to name this facility, when it reopens, after them. It is very appropriate that it be done.

Mr. REID. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3287) was read the third time and passed.

Mr. DASCHLE. Mr. President, I am pleased the Senate has passed H.R. 3287/S. 2907, a bill to rename the Brentwood postal facility after Joseph P. Curseen, Jr. and Thomas L. Morris, Jr. I can think of nothing more appropriate to honor the memory and tireless service of these two men. Our action today clears the way for the President to sign the bill into law. I especially recognize Celeste Curseen and Mary Morris. While nothing can erase the suffering of the Morris and Curseen families, I hope that the building will stand as a permanent reminder of the ultimate sacrifice made by Thomas Morris and Joseph Curseen.

It has been said that ''neither snow nor rain nor heat nor gloom of night stays these couriers from the swift completion of their appointed rounds.'' On October 15, 2001, that list was expanded when an anthrax-tainted letter was opened in my office. We later learned that its spread was far greater than first expected. A second letter addressed to the Senator from Vermont, Mr. LEAHY, was discovered weeks later. The Hart Senate Office Building was closed for more than three months. It took nearly six months to remediate and renovate my own office in that building. In the end, nearly a dozen people nationwide contracted inhalation anthrax, and five people, including Thomas Morris and Joseph Curseen, died as a result of this senseless act of bioterrorism.

Today, nearly a year later, the Brentwood facility where the letter was processed remains closed, with plans underway for a complete remediation and reopening of that building. Never again can anyone take the delivery of their mail for granted.

My staff and I feel a special kinship with the postal workers and others affected by these attacks. While the uncertainty and horror of October 15—the day the letter addressed to me was opened in my office—and the ensuing months were very real for us, the suffering of those struck by the disease was even greater. We can only imagine the pain experienced by Thomas Morris, Joseph Curseen, and their families, pain shared by the families of Robert Stevens, Kathy Thi Nguyen, and Ottilie Lundgren, who also lost their lives as a result of this terrorist act. Fortunately, LeRoy Richmond, Norma Wallace, ''George Fairfax,'' David Hose, and Ernesto Blanco survived their battles with inhalation anthrax, but we know how terrifying their experience must have been and that they continue to suffer the physical and emotional after-effects. Still others—including three postal workers—dealt with the fear and pain associated with the cutaneous form of the disease.

Postal workers are some of America's quiet heroes. They are on the front lines of the war on terrorism here at

home—keeping Americans safe and keeping all of us connected through the U.S. mail. Ask many of them, and they will probably say they are just ''doing their job.'' But we know it is more than that, and today we recognize their hard work and diligence by honoring two of their fallen comrades. The Joseph Curseen, Jr. and Thomas Morris, Jr. Processing and Distribution Center will forever stand as a memorial to their sacrifice in the line of duty.

CONGRATULATING LANCE ARMSTRONG

Mr. REID. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 315, and the Senate then proceed to its consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

The resolution (S. Res. 315) congratulating Lance Armstrong for winning the 2002 Tour de France.

There being no objection, the Senate proceeded to the immediate consideration.

Mr. REID. I ask consent that the resolution and preamble be agreed to, the motion to reconsider be laid upon the table, and any statements regarding this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 315) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 315

Whereas Lance Armstrong completed the 2,036-mile, 20-day course in 82 hours, 5 minutes, and 12 seconds to win the 2002 Tour de France, 7 minutes and 17 seconds ahead of his nearest competitor;

Whereas Lance Armstrong's win on July 28, 2002, in Paris, marks his fourth successive victory of the Tour de France, a feat surpassing all cycling records previously attained by an American cyclist;

Whereas Lance Armstrong displayed incredible perseverance, determination, and leadership to prevail over the mountainous terrain of the Alps and Pyrenees, vast stretches of countryside, and numerous city streets during the course of the premier cycling event in the world;

Whereas Lance Armstrong is the first cancer survivor to win the Tour de France;

Whereas in 1997, Lance Armstrong defeated choriocarcinoma, an aggressive form of testicular cancer that had spread throughout his abdomen, lungs, and brain, and after treatment has remained cancer-free for the past 5 years;

Whereas Lance Armstrong's bravery and resolution to overcome cancer has made him a role model to cancer patients and their loved ones, and his efforts through the Lance Armstrong Foundation have helped to advance cancer research, diagnosis, and treatment, and after-treatment services;

Whereas Lance Armstrong has been vital to the promotion of cycling as a sport, a healthy fitness activity, and a pollution-free transportation alternative; and

Whereas Lance Armstrong's accomplishments as an athlete, teammate, father, husband, cancer survivor, and advocate have made him an American hero: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Lance Armstrong and his team on his historic victory of the 2002 Tour de France;

(2) commends the unwavering commitment to cancer awareness and survivorship demonstrated by Lance Armstrong; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to Lance Armstrong.

ORDERS FOR MONDAY, SEPTEMBER 9, 2002

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 12 noon, Monday, September 9; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 1 p.m., with Senators permitted to speak for up to 10 minutes each, with the first half under the control of the majority leader or his designee, and the second half under the control of the Republican leader or his designee; that at 1 p.m. we proceed to executive session and vote on Executive Calendar No. 889; that any statements thereon appear at the appropriate place in the RECORD, and the President be adequately notified of the Senate's action; and the Senate return to legislative session and resume consideration of the Homeland Security Act, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask unanimous consent that it be in order to ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient.

The yeas and nays are ordered.

PROGRAM

Mr. REID. The next rollcall vote will be on the nomination of Kenneth Marra of Florida to be a U.S. district judge for the Southern District of Florida, at approximately 1 p.m. on Monday.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MERCURY REDUCTION ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 553, S. 351.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 351) to amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting the use of mercury fever thermometers and improving collection, recycling, and disposal of mercury, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part printed in black brackets and insert in lieu thereof the part printed in italic.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''Mercury Reduction and Disposal Act of 2001''.

[SEC. 2. FINDINGS.

[Congress finds that—

[(1) mercury is a persistent and toxic pollutant that bioaccumulates in the environment;

[(2) according to recent studies, mercury deposition is a significant public health threat in many States throughout the United States;

[(3) 40 States have issued fish advisories that warn certain individuals to restrict or avoid consuming mercury-contaminated fish from affected bodies of water;

[(4) according to a report by the National Academy of Sciences, over 60,000 children are born each year in the United States at risk for adverse neurodevelopmental effects due to exposure to methyl mercury in utero;

[(5) studies have documented that exposure to elevated levels of mercury in the environment results in serious harm to species of wildlife that consume fish;

[(6) combustion of municipal and other solid waste is a major source of mercury emissions in the United States;

[(7) according to the Mercury Study Report, prepared by the Environmental Protection Agency and submitted to Congress in 1997, mercury fever thermometers contribute approximately 17 tons of mercury to solid waste each year;

[(8) the Governors of the New England States have endorsed a regional goal of ''the virtual elimination of the discharge of anthropogenic mercury into the environment'';

[(9) mercury fever thermometers are easily broken, creating a potential risk of dangerous exposure to mercury vapor in indoor air and risking mercury contamination of the environment; and

[(10) according to the Environmental Protection Agency, the quantity of mercury in 1 mercury fever thermometer, approximately 1 gram, is enough to contaminate all fish in a lake with a surface area of 20 acres.

[SEC. 3. MERCURY.

[(a) IN GENERAL.—Subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) is amended by adding at the end the following:

[''SEC. 3024. MERCURY.

[''(a) PROHIBITION ON SALE OF MERCURY FEVER THERMOMETERS EXCEPT BY PRESCRIPTION.—Effective beginning 180 days after the date of enactment of this section—

[''(1) a person shall not sell or supply mercury fever thermometers to consumers, except by prescription; and

[''(2) with each mercury fever thermometer sold or supplied by prescription, the manufacturer of the thermometer shall provide clear instructions on—

[''(A) careful handling of the thermometer to avoid breakage; and

[''(B) proper cleanup of the thermometer and its contents in the event of breakage.

[''(b) THERMOMETER EXCHANGE PROGRAM.—The Administrator shall make grants to States, municipalities, nonprofit organizations, or other suitable entities for implementation of a national program for the collection of mercury fever thermometers from households and their exchange for thermometers that do not contain mercury.

[''(c) DISPOSAL OF COLLECTED MERCURY WASTE.—

[''(1) INTERAGENCY TASK FORCE.—

[''(A) ESTABLISHMENT.—There is established an advisory committee to be known as the 'Interagency Task Force on Mercury' (referred to in this section as the 'Task Force').

[''(B) MEMBERSHIP.—The Task Force shall be composed of 7 members, of whom—

[''(i) 1 member shall be the Administrator, who shall serve as Chairperson of the Task Force;

[''(ii) 1 member shall be appointed by each of—

[''(I) the Secretary of State;

[''(II) the Secretary of Defense;

[''(III) the Secretary of Energy; and

[''(IV) the Director of the National Institute of Environmental Health Sciences of the Department of Health and Human Services;

[''(iii) 1 member shall be appointed by the President to represent the American Public Health Association; and

[''(iv) 1 member shall be appointed by the President from the Environmental Council of the States.

[''(C) DATE OF APPOINTMENTS.—The appointment of a member of the Task Force shall be made not later than 30 days after the date of enactment of this section.

[''(D) TERM; VACANCIES.—

[''(i) TERM.—A member shall be appointed for the life of the Task Force.

[''(ii) VACANCIES.—A vacancy on the Task Force—

[''(I) shall not affect the powers of the Task Force; and

[''(II) shall be filled in the same manner as the original appointment was made.

[''(E) MEETINGS.—

[''(i) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Task Force have been appointed, the Task Force shall hold the initial meeting of the Task Force.

[''(ii) CALLING OF MEETINGS.—The Task Force shall meet at the call of the Chairperson.

[''(iii) QUORUM.—A majority of the members of the Task Force shall constitute a quorum, but a lesser number of members may hold hearings.

[''(F) DUTIES.—Not later than 1 year after the date of the initial meeting of the Task Force, the Task Force shall submit to Congress a report containing recommendations concerning—

[''(i) the long-term management and retirement of mercury collected from—

[''(I) mercury fever thermometers;

[''(II) other medical and commercial sources; and

[''(III) government sources, including mercury stored by the Department of Defense and the Department of Energy;

[''(ii) collection of mercury from industrial or other sources in the United States in cases in which the mercury is no longer needed, such as from retired chlor-alkali plants;

[''(iii) programs to test the long-term durability of promising technologies for sequestration of mercury that has been retired from use;

[''(iv) storage of mercury collected or sequestered under clause (i), (ii), or (iii) in a manner that ensures that there is no release of the mercury into the environment;

[''(v) reduction of the total threat posed by mercury to humans and the environment; and

[''(vi) reduction of the total quantity of mercury produced, used, and released on a global basis, including whether and how—

[''(I) the quantity of virgin mercury mined from the ground and placed in circulation each year can be reduced through bilateral or international agreements or other means;

[''(II) the quantity of mercury used in products and manufacturing can be reduced through substitution of mercury-free alternatives that are safer, available, and affordable; and

[''(III) essential mercury needs can be met through use of stockpiles in existence on the date of enactment of this section and increased recycling rather than through use of virgin mercury.

[''(G) HEARINGS.—The Task Force may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Task Force considers advisable to carry out this section.

[''(H) INFORMATION FROM FEDERAL AGENCIES.—

[''(i) IN GENERAL.—The Task Force may secure directly from a Federal agency such information as the Task Force considers necessary to carry out this section.

[''(ii) PROVISION OF INFORMATION.—On request of the Chairperson of the Task Force, the head of the agency shall provide the information to the Task Force.

[''(I) POSTAL SERVICES.—The Task Force may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

[''(J) GIFTS.—The Task Force may accept, use, and dispose of gifts or donations of services or property.

[''(K) COMPENSATION OF MEMBERS; TRAVEL EXPENSES.—

[''(i) NON-FEDERAL EMPLOYEES.—A member of the Task Force who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Task Force.

[''(ii) FEDERAL EMPLOYEES.—A member of the Task Force who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

[''(iii) TRAVEL EXPENSES.—A member of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Task Force.

[''(L) STAFF AND FUNDING.—

[''(i) DETERMINATION.—The Chairperson of the Task Force shall determine the level of staff and funding that are adequate to carry out the activities of the Task Force.

[''(ii) SOURCE.—The staff and funding shall be provided by and drawn equally from the resources of—

[''(I) the Department of Energy;

[''(II) the Department of Defense; and

[''(III) the Environmental Protection Agency.

[''(iii) APPOINTMENT OF STAFF.—The Chairperson may, without regard to the civil service laws (including regulations), appoint and terminate such staff as are necessary to enable the Task Force to perform the duties of the Task Force.

[''(iv) COMPENSATION.—

[''(I) IN GENERAL.—Except as provided in subclause (II), the Chairperson may fix the compensation of the staff of the Task Force that are not officers or employees of the Federal Government without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

[''(II) MAXIMUM RATE OF PAY.—The rate of pay for the staff shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

[''(v) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

[''(I) IN GENERAL.—An employee of the Federal Government may be detailed to the Task Force without reimbursement.

[''(II) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

[''(vi) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Task Force may procure for the purposes of the Task Force temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

[''(M) TERMINATION OF TASK FORCE.—The Task Force shall terminate on the date that is 90 days after the date on which the Task Force submits the report required under subparagraph (F).

[''(2) RESPONSIBILITY OF THE ADMINISTRATOR FOR SAFE DISPOSAL AND STORAGE OF MERCURY.—In consultation with the Task Force, the Administrator shall—

[''(A)(i) take title to the mercury collected under the thermometer exchange program established under subsection (b), or an equivalent quantity of mercury; and

[''(ii) manage (or designate a contractor to manage) the mercury collected in a manner that ensures that the mercury collected is not released into the environment or reintroduced into commerce; and

[''(B)(i) identify potential mercury stabilization technologies and measures that ensure minimal release of mercury into the environment; and

[''(ii) conduct such research, development, and demonstration of the technologies and measures as the Administrator determines to be appropriate.

[''(d) RELATION TO OTHER LAW.—Nothing in this section—

[''(1) precludes any State from imposing any additional requirement; or

[''(2) diminishes any obligation, liability, or other responsibility under other Federal law.

[''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000, of which—

[''(1) not more than 2.5 percent shall be used to carry out the activities of the Task Force; and

[''(2) not more than 2.5 percent shall be used to carry out subsection (c)(2)(B).''.

[(b) CONFORMING AMENDMENT.—Section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle C the following:

[''Sec. 3024. Mercury.''.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Mercury Reduction Act of 2002''.

SEC. 2. FINDINGS.

Congress finds that—

(1) mercury is a persistent and toxic pollutant that bioaccumulates in the environment;

(2) according to recent studies, mercury deposition is a significant public health threat in many States throughout the United States;

(3) 40 States have issued fish advisories that warn certain individuals to restrict or avoid consuming mercury-contaminated fish from affected bodies of water;

(4) according to a report by the National Academy of Sciences, over 60,000 children are born each year in the United States at risk for adverse neurodevelopmental effects due to exposure to methyl mercury in utero;

(5) studies have documented that exposure to elevated levels of mercury in the environment results in serious harm to species of wildlife that consume fish;

(6) combustion of municipal and other solid waste is a major source of mercury emissions in the United States;

(7) according to the Mercury Study Report, prepared by the Environmental Protection Agency and submitted to Congress in 1997, mercury fever thermometers contribute approximately 17 tons of mercury to solid waste each year;

(8) the Governors of the New England States have endorsed a regional goal of ''the virtual elimination of the discharge of anthropogenic mercury into the environment'';

(9) mercury fever thermometers are easily broken, creating a potential risk of dangerous exposure to mercury vapor in indoor air and risking mercury contamination of the environment; and

(10) according to the Environmental Protection Agency, the quantity of mercury in 1 mercury fever thermometer, approximately 1 gram, is enough to contaminate all fish in a lake with a surface area of 20 acres.

SEC. 3. MERCURY.

(a) IN GENERAL.—Subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) is amended by adding at the end the following:

''SEC. 3024. MERCURY.

''(a) PROHIBITION ON SALE OF MERCURY FEVER THERMOMETERS EXCEPT BY PRESCRIPTION.—Effective beginning 180 days after the date of enactment of this section—

''(1) a person shall not sell or supply mercury fever thermometers to consumers, except by prescription; and

''(2) with each mercury fever thermometer sold or supplied by prescription, the manufacturer of the thermometer shall provide clear instructions on—

''(A) careful handling of the thermometer to avoid breakage; and

''(B) proper cleanup of the thermometer and its contents in the event of breakage.

''(b) THERMOMETER EXCHANGE PROGRAM.—The Administrator shall make grants to States, municipalities, nonprofit organizations, or other suitable entities for implementation of a national program for the collection of mercury fever thermometers from households and their exchange for thermometers that do not contain mercury.

''(c) MANAGEMENT OF COLLECTED MERCURY.—

''(1) TASK FORCE.—

''(A) ESTABLISHMENT.—There is established an advisory committee to be known as the 'Task Force on Mercury' (referred to in this section as the 'Task Force').

''(B) MEMBERSHIP.—The Task Force shall be composed of 5 members, of whom—

''(i) 1 member shall be the Administrator, who shall serve as Chairperson of the Task Force;

''(ii) 1 member shall be the Secretary of State;

''(iii) 1 member shall be the Secretary of Defense;

''(iv) 1 member shall be the Secretary of Energy; and

''(v) 1 member shall be the Director of the National Institute of Environmental Health Sciences of the Department of Health and Human Services.

''(C) DATE OF APPOINTMENTS.—The appointment of a member of the Task Force shall be made not later than 30 days after the date of enactment of this section.

''(D) TERM; VACANCIES.—

''(i) TERM.—A member shall be appointed for the life of the Task Force.

''(ii) VACANCIES.—A vacancy on the Task Force—

''(I) shall not affect the powers of the Task Force; and

''(II) shall be filled in the same manner as the original appointment was made.

''(E) MEETINGS.—

''(i) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Task Force have been appointed, the Task Force shall hold the initial meeting of the Task Force.

''(ii) CALLING OF MEETINGS.—The Task Force shall meet at the call of the Chairperson.

''(iii) QUORUM.—A majority of the members of the Task Force shall constitute a quorum, but a lesser number of members may hold hearings.

''(F) DUTIES.—

''(i) IN GENERAL.—Not later than 1 year after the date of the initial meeting of the Task Force, the Task Force shall submit to Congress a report containing recommendations and suggested actions concerning—

''(I) the long-term management of surplus mercury collected from—

''(aa) mercury fever thermometers;

''(bb) other medical and commercial sources;

''(cc) government sources, including mercury stored by the Department of Defense and the Department of Energy; and

''(dd) industrial or other sources in the United States;

''(II) programs to test the long-term durability of promising technologies for sequestration of mercury;

''(III) storage of mercury collected or sequestered under subclause (I) or (II), in a manner that ensures that there is no release of the mercury into the environment;

''(IV) reduction of the total threat posed by mercury to humans and the environment; and

''(V) reduction of the total quantity of mercury produced, used, and released on a global basis, including whether and how—

''(aa) the quantity of virgin mercury mined from the ground and placed in circulation each year can be reduced through bilateral or international agreements or other means;

''(bb) the quantity of mercury used in products, mining, and manufacturing can be reduced through substitution of mercury-free alternatives that are safer, available, and affordable; and

''(cc) essential mercury needs can be met through use of stockpiles in existence on the date of enactment of this section rather than through use of virgin mercury.

''(ii) CONSULTATION.—In carrying out this subparagraph, the Task Force shall consult with States, industries, and health, environmental, and consumer organizations.

''(G) HEARINGS.—The Task Force may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Task Force considers advisable to carry out this section.

''(H) INFORMATION FROM FEDERAL AGENCIES.—

''(i) IN GENERAL.—The Task Force may secure directly from a Federal agency such information as the Task Force considers necessary to carry out this section.

''(ii) PROVISION OF INFORMATION.—On request of the Chairperson of the Task Force, the head of the agency shall provide the information to the Task Force.

''(I) POSTAL SERVICES.—The Task Force may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

''(J) GIFTS.—The Task Force may accept, use, and dispose of gifts or donations of services or property.

''(K) COMPENSATION OF MEMBERS; TRAVEL EXPENSES.—

''(i) FEDERAL EMPLOYEES.—A member of the Task Force who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

''(ii) TRAVEL EXPENSES.—A member of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Task Force.

''(L) STAFF AND FUNDING.—

''(i) DETERMINATION.—The Chairperson of the Task Force shall determine the level of staff and funding that are adequate to carry out the activities of the Task Force.

''(ii) SOURCE.—The staff and funding shall be provided by and drawn equally from the resources of—

''(I) the Department of Energy;

''(II) the Department of Defense; and

''(III) the Environmental Protection Agency.

''(iii) APPOINTMENT OF STAFF.—The Chairperson may, without regard to the civil service laws (including regulations), appoint and terminate such staff as are necessary to enable the Task Force to perform the duties of the Task Force.

''(iv) COMPENSATION.—

''(I) IN GENERAL.—Except as provided in subclause (II), the Chairperson may fix the compensation of the staff of the Task Force that are not officers or employees of the Federal Government without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

''(II) MAXIMUM RATE OF PAY.—The rate of pay for the staff shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(v) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

''(I) IN GENERAL.—An employee of the Federal Government may be detailed to the Task Force without reimbursement.

''(II) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

''(vi) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Task Force may procure for the purposes of the Task Force temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

''(M) TERMINATION OF TASK FORCE.—The Task Force shall terminate on the date that is 90 days after the date on which the Task Force submits the report required under subparagraph (F)(i).

''(N) NO EFFECT ON OTHER LAW.—Nothing in this paragraph affects the regulation of mercury under—

''(i) any other provision of this subtitle; or

''(ii) any other law.

''(2) RESPONSIBILITY OF THE ADMINISTRATOR FOR SAFE MANAGEMENT AND STORAGE OF MERCURY.—In consultation with the Task Force, the Administrator shall—

''(A)(i) purchase or otherwise take title to the mercury collected under the thermometer exchange program established under subsection (b), or collected from any other source;

''(ii) manage (or designate a contractor to manage) the mercury collected in a manner that ensures that the mercury collected is not released into the environment;

''(iii) ensure, to the maximum extent practicable, that the mercury collected under the thermometer exchange program established under subsection (b), or an equivalent quantity of mercury, is not reintroduced into commerce; and

''(iv) provide to the Task Force, for inclusion in the report of the Task Force under paragraph (1)(F)(i), an analysis of, and recommendations relating to, the mercury collection and management activities carried out under this section; and

''(B)(i) identify potential mercury stabilization technologies and long-term storage measures that ensure minimal release of mercury into the environment; and

''(ii) conduct such research, development, and demonstration of the technologies and measures as the Administrator determines to be appropriate.

''(d) RELATION TO OTHER LAW.—Nothing in this section—

''(1) precludes any State from imposing any additional requirement; or

''(2) diminishes any obligation, liability, or other responsibility under other Federal law.

''(e) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section (other than subsection (c)(2)(A)) $20,000,000, of which—

''(A) not more than 2.5 percent shall be used to carry out the activities of the Task Force; and

''(B) not more than 2.5 percent shall be used to carry out subsection (c)(2)(B).

''(2) SAFE MANAGEMENT AND STORAGE.—In addition to the amount authorized to be appropriated under paragraph (1), there is authorized to be appropriated to carry out subsection (c)(2)(A) $1,000,000 for each fiscal year.''.

(b) CONFORMING AMENDMENT.—Section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle C the following:

''Sec. 3024. Mercury.''.

Amend the title so as to read: ''A bill to amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting the use of mercury fever thermometers and improving the collection and proper management of mercury, and for other purposes.''.

Ms. COLLINS. Mr. President, the Senate is considering, and will shortly pass, the Mercury Reduction Act of 2002. This legislation addresses the very serious problem of mercury in the environment and mercury disposal. It takes special aim at one of the most common and widely distributed sources of mercury; and that is, mercury fever thermometers. At the same time, the legislation will also create a nationwide policy for dealing with surplus mercury.

I introduced this bill quite some time ago. It has bipartisan support. I am delighted that the Senate will be approving it this evening.

Mercury is a potent neurotoxin that is widespread in the environment and is particularly harmful to developing children. In fact, a National Academy of Sciences report released last year attributed mercury exposure to birth defects and brain damage in up to 60,000 newborn children each year.

Mercury takes on a highly toxic organic form known as methylmercury when it enters the environment. Methylmercury is almost completely absorbed into the bloodstream and distributed to all the tissues in the body, including the brain. Of course, with young children this is particularly problematic because their brains are still developing.

This organic mercury can accumulate in the food chain and become concentrated in some species of fish, posing a health threat to people who consume the fish. For this reason, 40 States have issued freshwater fish advisories that warn certain individuals, such as pregnant women, to restrict or avoid consuming fish from infected bodies of water.

One prevalent source of mercury in the environment is, as I said, mercury fever thermometers. Many of us know from personal experience how easy it is to drop a mercury thermometer and see it break. In fact, in 1998 the American Poison Control Center received 18,000 phone calls from consumers who had broken mercury thermometers.

One mercury thermometer contains about 1 gram of mercury. That does not sound like much, but let me tell you what the consequences are of just 1 gram of mercury. Despite its small size, the mercury in one thermometer, if released annually into the environment, is enough to contaminate all the fish in a 20-acre lake. That is how powerful a neurotoxin mercury is.

The bill we are about to pass calls for a nationwide ban on the sale of mercury fever thermometers. It would also provide grants for swap programs to help consumers exchange mercury thermometers for digital or other alternatives. Digital thermometers are easier to read. They are much quicker to use. They do not break easily. And, most of all, they do not contain mercury.

My bill will allow millions of consumers across the Nation to receive free digital thermometers in exchange for their mercury thermometers. By bringing mercury thermometers in for proper disposal, consumers will also help to ensure that the mercury from their thermometers does not end up polluting our lakes and threatening our health. It will also reduce the risk of breakage and contamination inside the home.

An important component of my bill is the safe disposal of mercury that is collected from these thermometer exchange programs. Many States have started these kinds of exchange programs—communities have as well—but then they are left with the mercury from them, and they don't really have a good means for disposing of them.

My legislation directs the EPA to ensure that the mercury is properly collected and stored in order to keep it out of the environment and out of commerce. After all, if we collect all this mercury from fever thermometers but then it is sold back to India and then shipped back to the United States in other products, we are really not solving the problem. We want to make sure this mercury does not reenter the environment so that it will not be sent to India, one of the largest manufacturers of mercury thermometers.

The mercury collected from thermometer exchange programs is only part of the problem. There is a bigger problem, and that is the global circulation of mercury. Let me give an example.

When the HoltraChem manufacturing plant in Orrington, ME, shut down 2 years ago, the plant was left with over 100 tons of unwanted mercury and no known way to permanently dispose of it. In total, about 3,000 tons of mercury is held at similar plants across the United States.

In addition, large amounts of mercury are still being mined around the world. For example, in 1999, Algeria mined 400 tons of virgin mercury. In total, approximately 2,000 tons of new mercury is mined every year. Moreover, the Department of Defense currently has a stockpile of over 4,000 tons of mercury that it doesn't want but doesn't know what to do with. Why are Algeria and other countries still mining large amounts of an element that is a neurotoxin, when the United States and other countries are doing their best to remove this extremely toxic element from the environment? And how will the United States dispose of the huge amounts of mercury at chlor-alkali plants and other no longer needed sources?

My bill creates an interagency task force to address these very questions. The task force will be chaired by the Administrator of the EPA and comprised of members from other Federal agencies involved with mercury.

Specifically, my bill directs this task force to find ways to reduce the mercury threat to humans and the environment, to identify a long-term means of disposing of mercury, and to address the excess mercury problem from mines as well as from other industrial sources.

In sum, this task force is directed to identify comprehensive solutions to the global mercury problem. In one year, the mercury task force will make recommendations to Congress for permanently disposing mercury, for retiring mercury from plants and other sources, and for reducing the amount of new mercury that is mined every year. At that time, it will be up to Congress to act upon the recommendations of this task force.

In the meantime, this bill will make significant progress toward reducing one of the most widespread sources of mercury contamination in the environment by banning the sale nationwide of mercury fever thermometers.

I am very pleased the Senate will pass my legislation shortly. I thank the members of the Environment and

Public Works Committee for their strong bipartisan support of this legislation.

This bill is a modest bill, in many ways, but it addresses a very serious problem. It will help make our environment a safer place and help our children avoid exposure to one of the most toxic elements in our environment.

Mr. REID. It is my understanding Senators JEFFORDS and SMITH of New Hampshire have an amendment. It is at the desk. I ask unanimous consent it be considered now, that the amendment be agreed to, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4511) was agreed to, as follows:

On page 16, strike lines 4 through 6.

On page 16, line 7, strike ''(7)'' and insert ''(6)''.

On page 16, line 12, strike ''(8)'' and insert ''(7)''.

On page 16, line 16, strike ''(9)'' and insert ''(8)''.

On page 16, line 20, strike ''(10)'' and insert ''(9)''.

On page 17, line 23, insert ''liquid'' before ''mercury''.

On page 21, line 15, insert ''intentionally'' before ''used''.

Mr. REID. I ask unanimous consent that the committee-reported amendment be agreed to, the bill as amended be read three times and passed, the motion to reconsider be laid on the table, and that the title amendment be agreed to, without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The title amendment was agreed to.

The bill (S. 351) was read the third time and passed, as follows:

S. 351

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Mercury Reduction Act of 2002''.

SEC. 2. FINDINGS.

Congress finds that—

(1) mercury is a persistent and toxic pollutant that bioaccumulates in the environment;

(2) according to recent studies, mercury deposition is a significant public health threat in many States throughout the United States;

(3) 40 States have issued fish advisories that warn certain individuals to restrict or avoid consuming mercury-contaminated fish from affected bodies of water;

(4) according to a report by the National Academy of Sciences, over 60,000 children are born each year in the United States at risk for adverse neurodevelopmental effects due to exposure to methyl mercury in utero;

(5) studies have documented that exposure to elevated levels of mercury in the environment results in serious harm to species of wildlife that consume fish;

(6) according to the Mercury Study Report, prepared by the Environmental Protection Agency and submitted to Congress in 1997, mercury fever thermometers contribute approximately 17 tons of mercury to solid waste each year;

(7) the Governors of the New England States have endorsed a regional goal of ''the virtual elimination of the discharge of anthropogenic mercury into the environment'';

(8) mercury fever thermometers are easily broken, creating a potential risk of dangerous exposure to mercury vapor in indoor air and risking mercury contamination of the environment; and

(9) according to the Environmental Protection Agency, the quantity of mercury in 1 mercury fever thermometer, approximately 1 gram, is enough to contaminate all fish in a lake with a surface area of 20 acres.

SEC. 3. MERCURY.

(a) IN GENERAL.—Subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) is amended by adding at the end the following:

''SEC. 3024. MERCURY.

''(a) PROHIBITION ON SALE OF MERCURY FEVER THERMOMETERS EXCEPT BY PRESCRIPTION.—Effective beginning 180 days after the date of enactment of this section—

''(1) a person shall not sell or supply mercury fever thermometers to consumers, except by prescription; and

''(2) with each mercury fever thermometer sold or supplied by prescription, the manufacturer of the thermometer shall provide clear instructions on—

''(A) careful handling of the thermometer to avoid breakage; and

''(B) proper cleanup of the thermometer and its contents in the event of breakage.

''(b) THERMOMETER EXCHANGE PROGRAM.—The Administrator shall make grants to States, municipalities, nonprofit organizations, or other suitable entities for implementation of a national program for the collection of liquid mercury fever thermometers from households and their exchange for thermometers that do not contain mercury.

''(c) MANAGEMENT OF COLLECTED MERCURY.—

''(1) TASK FORCE.—

''(A) ESTABLISHMENT.—There is established an advisory committee to be known as the 'Task Force on Mercury' (referred to in this section as the 'Task Force').

''(B) MEMBERSHIP.—The Task Force shall be composed of 5 members, of whom—

''(i) 1 member shall be the Administrator, who shall serve as Chairperson of the Task Force;

''(ii) 1 member shall be the Secretary of State;

''(iii) 1 member shall be the Secretary of Defense;

''(iv) 1 member shall be the Secretary of Energy; and

''(v) 1 member shall be the Director of the National Institute of Environmental Health Sciences of the Department of Health and Human Services.

''(C) DATE OF APPOINTMENTS.—The appointment of a member of the Task Force shall be made not later than 30 days after the date of enactment of this section.

''(D) TERM; VACANCIES.—

''(i) TERM.—A member shall be appointed for the life of the Task Force.

''(ii) VACANCIES.—A vacancy on the Task Force—

''(I) shall not affect the powers of the Task Force; and

''(II) shall be filled in the same manner as the original appointment was made.

''(E) MEETINGS.—

''(i) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Task Force have been appointed, the Task Force shall hold the initial meeting of the Task Force.

''(ii) CALLING OF MEETINGS.—The Task Force shall meet at the call of the Chairperson.

''(iii) QUORUM.—A majority of the members of the Task Force shall constitute a quorum, but a lesser number of members may hold hearings.

''(F) DUTIES.—

''(i) IN GENERAL.—Not later than 1 year after the date of the initial meeting of the Task Force, the Task Force shall submit to Congress a report containing recommendations and suggested actions concerning—

''(I) the long-term management of surplus mercury collected from—

''(aa) mercury fever thermometers;

''(bb) other medical and commercial sources;

''(cc) government sources, including mercury stored by the Department of Defense and the Department of Energy; and

''(dd) industrial or other sources in the United States;

''(II) programs to test the long-term durability of promising technologies for sequestration of mercury;

''(III) storage of mercury collected or sequestered under subclause (I) or (II), in a manner that ensures that there is no release of the mercury into the environment;

''(IV) reduction of the total threat posed by mercury to humans and the environment; and

''(V) reduction of the total quantity of mercury produced, used, and released on a global basis, including whether and how—

''(aa) the quantity of virgin mercury mined from the ground and placed in circulation each year can be reduced through bilateral or international agreements or other means;

''(bb) the quantity of mercury intentionally used in products, mining, and manufacturing can be reduced through substitution of mercury-free alternatives that are safer, available, and affordable; and

''(cc) essential mercury needs can be met through use of stockpiles in existence on the date of enactment of this section rather than through use of virgin mercury.

''(ii) CONSULTATION.—In carrying out this subparagraph, the Task Force shall consult with States, industries, and health, environmental, and consumer organizations.

''(G) HEARINGS.—The Task Force may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Task Force considers advisable to carry out this section.

''(H) INFORMATION FROM FEDERAL AGENCIES.—

''(i) IN GENERAL.—The Task Force may secure directly from a Federal agency such information as the Task Force considers necessary to carry out this section.

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''(J) GIFTS.—The Task Force may accept, use, and dispose of gifts or donations of services or property.

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''(ii) TRAVEL EXPENSES.—A member of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the

member in the performance of the duties of the Task Force.

''(L) STAFF AND FUNDING.—

''(i) DETERMINATION.—The Chairperson of the Task Force shall determine the level of staff and funding that are adequate to carry out the activities of the Task Force.

''(ii) SOURCE.—The staff and funding shall be provided by and drawn equally from the resources of—

''(I) the Department of Energy;

''(II) the Department of Defense; and

''(III) the Environmental Protection Agency.

''(iii) APPOINTMENT OF STAFF.—The Chairperson may, without regard to the civil service laws (including regulations), appoint and terminate such staff as are necessary to enable the Task Force to perform the duties of the Task Force.

''(iv) COMPENSATION.—

''(I) IN GENERAL.—Except as provided in subclause (II), the Chairperson may fix the compensation of the staff of the Task Force that are not officers or employees of the Federal Government without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

''(II) MAXIMUM RATE OF PAY.—The rate of pay for the staff shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(v) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

''(I) IN GENERAL.—An employee of the Federal Government may be detailed to the Task Force without reimbursement.

''(II) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

''(vi) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Task Force may procure for the purposes of the Task Force temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

''(M) TERMINATION OF TASK FORCE.—The Task Force shall terminate on the date that is 90 days after the date on which the Task Force submits the report required under subparagraph (F)(i).

''(N) NO EFFECT ON OTHER LAW.—Nothing in this paragraph affects the regulation of mercury under—

''(i) any other provision of this subtitle; or

''(ii) any other law.

''(2) RESPONSIBILITY OF THE ADMINISTRATOR FOR SAFE MANAGEMENT AND STORAGE OF MERCURY.—In consultation with the Task Force, the Administrator shall—

''(A)(i) purchase or otherwise take title to the mercury collected under the thermometer exchange program established under subsection (b), or collected from any other source;

''(ii) manage (or designate a contractor to manage) the mercury collected in a manner that ensures that the mercury collected is not released into the environment;

''(iii) ensure, to the maximum extent practicable, that the mercury collected under the thermometer exchange program established under subsection (b), or an equivalent quantity of mercury, is not reintroduced into commerce; and

''(iv) provide to the Task Force, for inclusion in the report of the Task Force under paragraph (1)(F)(i), an analysis of, and recommendations relating to, the mercury collection and management activities carried out under this section; and

''(B)(i) identify potential mercury stabilization technologies and long-term storage measures that ensure minimal release of mercury into the environment; and

''(ii) conduct such research, development, and demonstration of the technologies and measures as the Administrator determines to be appropriate.

''(d) RELATION TO OTHER LAW.—Nothing in this section—

''(1) precludes any State from imposing any additional requirement; or

''(2) diminishes any obligation, liability, or other responsibility under other Federal law.

''(e) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section (other than subsection (c)(2)(A)) $20,000,000, of which—

''(A) not more than 2.5 percent shall be used to carry out the activities of the Task Force; and

''(B) not more than 2.5 percent shall be used to carry out subsection (c)(2)(B).

''(2) SAFE MANAGEMENT AND STORAGE.—In addition to the amount authorized to be appropriated under paragraph (1), there is authorized to be appropriated to carry out subsection (c)(2)(A) $1,000,000 for each fiscal year.''.

(b) CONFORMING AMENDMENT.—Section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle C the following:

''Sec. 3024. Mercury.''.

ADJOURNMENT UNTIL MONDAY, SEPTEMBER 9, 2002

Mr. REID. If there is no further business to come before the Senate today, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:35 p.m, adjourned until Monday, September 9, 2002, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate September 5, 2002:

DEPARTMENT OF STATE

DAVID N. GREENLEE, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BOLIVIA.

ROBIN RENEE SANDERS, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CONGO.

APPALACHIAN REGIONAL COMMISSION

ANNE B. POPE, OF TENNESSEE, TO BE FEDERAL COCHAIRMAN OF THE APPALACHIAN REGIONAL COMMISSION, VICE JESSE L. WHITE, RESIGNED.

RICHARD J. PELTZ, OF PENNSYLVANIA, TO BE ALTERNATIVE FEDERAL COCHAIRMAN OF THE APPALACHIAN REGIONAL COMMISSION, VICE ELLA WONG-RUSINKO, RESIGNED.

CONFIRMATION

Executive nomination confirmed by the Senate September 5, 2002:

DEPARTMENT OF THE TREASURY

PAMELA F. OLSON, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.